



**TWEED**  
SHIRE COUNCIL

**Mayor:** Cr K Milne

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

# Minutes

## **Planning Committee Meeting Thursday 2 November 2017**

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

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 79C

### 79C 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 Director-General 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 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, 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.

The consent authority is not required to take into consideration the likely impact of the development on biodiversity values if:

- (a) the development is to be carried out on biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995 ), or
- (b) a biobanking statement has been issued in respect of the development under Part 7A of the Threatened Species Conservation Act 1995 .

(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 80 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 80 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 85A (3) and (4).

- (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 5.33pm.

### **IN ATTENDANCE**

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

Also present were Mr Troy Green (General Manager), Mr Michael Chorlton (for Director Corporate Services), Mr Paul Morgan (for Director Engineering), Mr Vince Connell (Director Planning and Regulation), Ms Tracey Stinson (Director Community and Natural Resources), Mr Shane Davidson (Executive Officer), Mr Neil Baldwin (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 the General Manager.

*"If you'd like to indicate your agreement consider bowing your head during the prayer. Otherwise take a moment for quiet reflection on what will best enable good Council decisions to be made today."*

*Almighty God,*

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

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

### **APOLOGIES**

Nil.

### **DISCLOSURE OF INTEREST**

Nil.

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

Nil.

### **SCHEDULE OF OUTSTANDING RESOLUTIONS**

Nil.

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## ORDERS OF THE DAY

Nil.

## REPORTS THROUGH THE GENERAL MANAGER

Nil.

## REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 1 **[PR-PC] Development Application DA16/0936 for a Water Extraction Facility and Associated Roadworks at Lot 3 DP 815475 No. 350 Rowlands Creek Road and Road Reserve, Rowlands Creek**

## ALTERNATE MOTION

**P 117**

**Cr C Cherry  
Cr R Cooper**

## **RECOMMENDED** that:

1. This item be deferred to the Planning Committee meeting of 7 December 2017 to allow the concerns raised about the inconsistencies and discrepancies in the traffic report with the Council report to be investigated and to allow Council to consider the advice received by the Councillors from the Environmental Defenders Office to consider the impacts of water extraction and our responsibilities as decision maker on this issue and to allow Council to seek advice from Destination Tweed as to the likely impacts on its experiential tourism initiative.
2. Council establish the cost to ratepayers of maintaining Rowlands Creek Road from Kyogle Road to 350 Rowlands Creek Road as it ages and a projection of the maintenance costs, given it wasn't constructed to withstand the repetitive heavy loads imposed by this application - including pavement failure, pavement edge failure, probable increased land slips as a result of repetitive heavy loads over the life of the DA and as a result of the predicted increase in heavy rainfall events.

The Motion was **Carried**

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

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- 2 [PR-PC] Development Application DA17/0381 for a Mixed Use Development Including Retail and Office, Shop Top Housing, Multi Dwelling Housing, Residential Flat Building with Residential Accommodation and Tourist and Visitor Accommodation Subdivision in 3 St ages and 31 Lot Strata Subdivision at Lot 54 & Lot 55 DP 1145386 Cylinders Drive, Kingscliff**

**P 118**

**Cr W Polglase  
Cr J Owen**

**RECOMMENDED** that:

- A. Clause 4.6 variation to Clause 4.3 of Tweed Local Environmental Plan 2014 regarding the height of the building is supported and the concurrence of the Director-General of the Department of Planning and Environment be assumed.
- B. Development Application DA17/0381 for a mixed use development including retail and office, shop top housing, multi dwelling housing, residential flat building with residential accommodation and tourist and visitor accommodation subdivision in 3 stages and 31 lot strata subdivision at Lot 54 DP 1145386 & Lot 55 DP 1145386 Cylinders Drive, Kingscliff be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos:

Building Plans

- DA-100 Basement
- DA-101 Ground Floor,
- DA-102 Level 1
- DA-103 Level 2
- DA- 104Level 3
- DA-110 Roof Plan
- DA-200 Elevations East and West
- DA-201 Elevations North and South
- DA-202 Elevations
- DA-203 Elevations
- DA-300 Sections
- DA-301 Sections
- DA-400 Perspectives
- DA-401 Perspectives

All Revision B dated 14.08.17, Prepared by Ferro Arch Architects.

- Engineering Plan No J184 Drawing Number 0004 Revision B dated 12/10/17 Prepared by Planit Engineering

Subdivision Plans

- Proposed Subdivision - Drawing No 21931 D dated 01/05/2017
- Proposed Strata Subdivision of Lot 1 Drawing No. T16218/21932 D dated 01/05/2017 Sheet 1 and 2
- Proposed Strata Subdivision of Lot 3 Drawing No. T16218/21942 D dated 01/05/2017 Sheet 1 and 2
- Proposed Strata Subdivision of Lot 2 Drawing No. T16218/21943 D dated 01/05/2017 Sheets 1 - 6.

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

[GEN0125]

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. Sewer manholes are 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]

6. Any business or premises proposing to discharge wastewater containing pollutants differing from domestic sewage must submit a Liquid Trade Waste Application Form to Council. The application is to be approved by the General Manager or his delegate prior to any discharge to the sewerage system. A Liquid Trade Waste Application fee will be applicable in accordance with Council's adopted Fees and Charges.

[GEN0190]

7. The proposal is to comply at all times with Tweed Shire Council's adopted Footpath Dining Policy except where varied by this approval.

[GEN0225]

8. 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]

9. All cooking gases shall be discharged above the roof line in accordance with AS1668.
10. Effective sediment and erosion controls shall be placed and maintained throughout the period of construction to the satisfaction of Council's General Manager or his delegate.
11. Separate approval shall be obtained for fitout of tenancies used for food preparation.
12. Where easements in favour of Council are provided through private property no structures or part thereof may encroach into the easement. This includes (but is not limited to) vertical sunshade panels, roofs, awnings or eaves, gutters and any part of the building, fences/ retaining walls and other services.
13. Proposed Lot 1 shall connect to the existing sewer junction on existing Lot 55 DP 1145386 to the sewer pipeline in Nautilus Way
14. The Applicant shall submit an 'Application for Sewer Junction Installation' to Council's Water Unit to facilitate a sewer junction for proposed Lot 2 on existing Lot 54 DP 1145386, from the existing sewer pipeline in Nautilus Way. The sewer junction works shall be completed by a qualified Plumber and works shall be inspected and approved by Council's Water & Wastewater Unit before a S68 approval to Connect to Sewer (SEW) can be issued by Council's Building and Environmental Health Unit.
15. The inspection opening for the sewer junction for proposed Lot 2 on existing Lot 54 DP 1145386 shall be a trafficable lid to be constructed flush with the proposed driveway surface.
16. Proposed Lot 3 shall connect to the existing sewer junction on existing Lot 54 DP 1145386 to the sewer pipeline in Nautilus Way.
17. The development shall be undertaken in the following stages:

Stage 1

- 3 Multi Dwelling Houses (as attached Row Houses) and associated car parking upon proposed Lot 1,
- Torrens title subdivision of Lots 54 and 55 into 3 lots,
- Strata subdivision of Lot 1 to create 3 lots and common property,
- Access off Nautilus Way, and
- Internal driveway construction.

Stage 2

- Shop-top Housing and Residential Flat Building including basement car parking and strata subdivision of proposed Lot 2 into 18 lots and common property.
  - o 16 self-contained apartments,

- Basement ramp accessing 31 car spaces (including 4 Visitor Spaces),
- 2 Commercial premises (being office and retail buildings) and associated car parking.

Stage 3

- Shop-top Housing including strata subdivision of proposed Lot 3 into 10 lots plus common property.
  - 6 dwellings over 4 commercial space and associated car parking,
  - 1 Loading Dock for a Small-Ridged Vehicle (SRV).

unless approved otherwise by the Consent Authority.

[GENNS03]

18. No vehicle larger than a standard Small Rigid Vehicle (SRV) as defined in the latest version of *AS 2890.2 Parking Facilities - Off-Street Commercial Vehicle Facilities* shall service the site, with a designated parking space for the SRV provided in accordance with the provisions of AS2890.2 and details relevant to but not limited to the following:

- Minimum clearance heights.
- Design turning radius provisions.
- Parking / service bay dimensions.
- Maximum roadway and ramp grades and rates of change.
- Access driveway widths.
- Access driveway sight distances.
- Manoeuvring clearances.

[GENNS04]

19. The finished floor level of the ground level commercial units is to be consistent with those exhibited to the Ocean Avenue and Cylinders Drive road reserves to enable access to these tenancies in accordance with the provisions of the Disability Discrimination Act.

[GENNS05]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

20. The developer shall provide the following parking spaces per stage of development, including parking for the disabled (as required) in accordance with Tweed Shire Council's Development Control Plan Part A2 - *Site Access and Parking Code*.

- Stage 1
  - A minimum of 2 car parks per townhouse for Stage 1.
  - A minimum of 1 Visitor car park.
- Stage 2
  - A minimum of 27 car parks for the residential component of Stage 2, with each set of proposed tandem car parks allocated to a unit with at least 2 bedrooms.
    - The proposed basement turn-around bay shall be appropriately line-marked / sign posted so as to not be used as a car parking space.

- A minimum of 4 Visitor car parks.
  - A minimum of 4 commercial car parks dedicated to the retail space in Stage 2.
  - A minimum of 1 commercial car park dedicated to the office space in Stage 2.
- Stage 3
- the remaining carparking per the approved plans including a SRV space and accessible parking space.

Note: access to the Stage 2 basement car park must be designed accordingly to provide sufficient height clearance to allow appropriate vehicles to access the basement stormwater treatment device for servicing or the building proper must provide acceptable alternative access facilities.

Accessible parking space number 8 shall include a bollard within the shared zone in accordance with AS2890.6.

Electronic gates must not restrict Visitors from accessing the Visitor parking bays within the Stage 2 basement car park.

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

[PCC0065]

21. Prior to issue of Construction Certificate the applicant is to submit to Council's General Manager or delegate a list of the finished building materials and colours (including colour product photo images) for approval. Specifically the application should be amended to reflect subdued earthy natural coastal colours. The submitted yellow and black as part of the development perspectives is not deemed acceptable.

[PCC0175]

22. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 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 94 Contributions have been paid and the Certifying Authority has sighted Council's 'Contribution Sheet' signed by an authorised officer of Council.

**Prior to release of Construction Certificate 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 S94 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 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

Stage 1

(a) Tweed Road Contribution Plan: 5.2 Trips @ \$1231 per Trips (\$1,145 base rate + \$86 indexation) S94 Plan No. 4 Sector7_4	\$6,401
(b) Shirewide Library Facilities: 1.625 ET @ \$869 per ET (\$792 base rate + \$77 indexation) S94 Plan No. 11	\$1,412
(c) Bus Shelters: 1.625 ET @ \$66 per ET (\$60 base rate + \$6 indexation) S94 Plan No. 12	\$107
(d) Eviron Cemetery: 1.625 ET @ \$127 per ET (\$101 base rate + \$26 indexation) S94 Plan No. 13	\$206
(e) Community Facilities (Tweed Coast - North) 1.625 ET @ \$1457 per ET (\$1,305.60 base rate + \$151.40 indexation) S94 Plan No. 15	\$2,368
(f) Extensions to Council Administration Offices & Technical Support Facilities 1.625 ET @ \$1935.62 per ET (\$1,759.90 base rate + \$175.72 indexation) S94 Plan No. 18	\$3,145.38
(g) Regional Open Space (Casual) 1.625 ET @ \$1132 per ET (\$1,031 base rate + \$101 indexation) S94 Plan No. 26	\$1,840
(h) Regional Open Space (Structured): 1.625 ET @ \$3974 per ET (\$3,619 base rate + \$355 indexation) S94 Plan No. 26	\$6,458

- (i) Seaside City Structured Open Space:  
 1.625 ET @ \$4456 per ET \$7,241  
 (\$3,585 base rate + \$871 indexation)  
 S94 Plan No. 28

Stage 2

- (a) Tweed Road Contribution Plan:  
 107.476 Trips @ \$1231 per Trips \$106,908  
 (\$1,145 base rate + \$86 indexation)  
 (\$25,395 has been subtracted from this total as this development is deemed  
 an 'Employment Generating Development')  
 S94 Plan No. 4  
 Sector7\_4
- (b) Shirewide Library Facilities:  
 11.3314 ET @ \$869 per ET \$9,847  
 (\$792 base rate + \$77 indexation)  
 S94 Plan No. 11
- (c) Bus Shelters:  
 11.3314 ET @ \$66 per ET \$748  
 (\$60 base rate + \$6 indexation)  
 S94 Plan No. 12
- (d) Eviron Cemetery:  
 11.3314 ET @ \$127 per ET \$1,439  
 (\$101 base rate + \$26 indexation)  
 S94 Plan No. 13
- (e) Community Facilities (Tweed Coast - North)  
 11.3314 ET @ \$1457 per ET \$16,510  
 (\$1,305.60 base rate + \$151.40 indexation)  
 S94 Plan No. 15
- (f) Extensions to Council Administration Offices  
 & Technical Support Facilities  
 11.4034 ET @ \$1935.62 per ET \$22,072.65  
 (\$1,759.90 base rate + \$175.72 indexation)  
 S94 Plan No. 18
- (g) Cycleways:  
 4.29 ET @ \$490 per ET \$2,102  
 (\$447 base rate + \$43 indexation)  
 S94 Plan No. 22
- (h) Regional Open Space (Casual)  
 11.3314 ET @ \$1132 per ET \$12,827  
 (\$1,031 base rate + \$101 indexation)  
 S94 Plan No. 26

- (i) Regional Open Space (Structured):  
11.3314 ET @ \$3974 per ET \$45,031  
(\$3,619 base rate + \$355 indexation)  
S94 Plan No. 26
- (j) Seaside City Structured Open Space:  
11.3314 ET @ \$4456 per ET \$50,492.72  
(\$3,585 base rate + \$871 indexation)  
S94 Plan No. 28

Stage 3

- (a) Tweed Road Contribution Plan:  
57.3 Trips @ \$1231 per Trips \$50,643.04  
(\$1,145 base rate + \$86 indexation)  
(\$19,892.96 has been subtracted from this total as this development is  
deemed an 'Employment Generating Development')  
S94 Plan No. 4  
Sector7\_4
- (b) Shirewide Library Facilities:  
4.25 ET @ \$869 per ET \$3,693  
(\$792 base rate + \$77 indexation)  
S94 Plan No. 11
- (c) Bus Shelters:  
4.25 ET @ \$66 per ET \$281  
(\$60 base rate + \$6 indexation)  
S94 Plan No. 12
- (d) Eviron Cemetery:  
4.25 ET @ \$127 per ET \$540  
(\$101 base rate + \$26 indexation)  
S94 Plan No. 13
- (e) Community Facilities (Tweed Coast - North)  
4.25 ET @ \$1457 per ET \$6,192  
(\$1,305.60 base rate + \$151.40 indexation)  
S94 Plan No. 15
- (f) Extensions to Council Administration Offices  
& Technical Support Facilities  
4.306 ET @ \$1935.62 per ET \$8,334.78  
(\$1,759.90 base rate + \$175.72 indexation)  
S94 Plan No. 18
- (g) Cycleways:  
4.25 ET @ \$490 per ET \$2,083  
(\$447 base rate + \$43 indexation)  
S94 Plan No. 22

(h)	Regional Open Space (Casual) 4.25 ET @ \$1132 per ET (\$1,031 base rate + \$101 indexation) S94 Plan No. 26	\$4,811
(i)	Regional Open Space (Structured): 4.25 ET @ \$3974 per ET (\$3,619 base rate + \$355 indexation) S94 Plan No. 26	\$16,890
(j)	Seaside City Structured Open Space: 4.25 ET @ \$4456 per ET (\$3,585 base rate + \$871 indexation) S94 Plan No. 28	\$18,938

[PCC0215]

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

[PCC0285]

24. The development site shall be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system. The development must at no time result in additional ponding or runoff occurring onto neighbouring properties.

Detailed engineering plans of fill levels shall be submitted with the Construction Certificate for Building Works application for approval by the PCA.

[PCC0485]

25. Landscaping Plan Figure 2 prepared by Planit in May 2017 shall be submitted with the Construction Certificate, containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species. A minimum of three large or 6 medium trees will be placed within the deep soil zones.

[PCC0585]

26. Prior to the issue of a Construction Certificate for Building Works for Stage 1 of the development, 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, including (but not limited to) the construction of a new, vehicular access in accordance with Council's Development Control Plan - Section A2 "*Site Access and Parking Code*" and Council's "*Driveway Access to Property - Design Specification*" (*current version*) off Nautilus Way.

Applications shall include (as applicable) engineering plans and specifications undertaken in accordance with Council's Development Design and Construction Specifications, including:

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

[PCC0895]

27. Details from a Structural Engineer are to be submitted to the Principal Certifying 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 for Building Works, for each stage of development, as applicable.

[PCC0935]

28. Council will not permit ground anchors (to retain sacrificial sheet piling for basement excavations) within Council or neighbouring private property or within 200mm of the subject site's property boundary, without prior consent from Council or the applicable neighbouring property owner being obtained. If the land is owned by Council, approval is required from the General Manager or his delegate.

Prior to the issue of a Construction Certificate for the basement, the Proponent must enter into a contract regarding liability for the ground anchors and lodge an application under Section 138 of the Roads Act (with applicable application fee) plus a bond of \$25,000 for each road frontage. This bond will be refunded upon the removal of the ground anchors to the satisfaction of Council. If the ground anchors are not removed prior to the occupation/use of the development, the bond shall be forfeited to Council.

[PCC0955]

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

- (a) The Construction Certificate Application for Building Works for each stage of the development shall include a detailed Stormwater Management Plan (SWMP) for the occupational or use stage of the development prepared 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) It is encouraged that Water Sensitive Urban Design principles such as bio-retention facilities in accordance with "Water By Design" guidelines (being a program of the South East Queensland Healthy Waterways Partnership) are utilised, instead of installing an "end of line" proprietary Gross Pollutant Device.



- (d) The proposed treatment system shall be supported by MUSIC modelling, with details of the intended filter provided.
- (e) Specific Requirements to be detailed within the Construction Certificate application include:
  - i. Shake down area shall be installed within the property, immediately prior to any construction vehicles entering or exiting the site, prior to any works being undertaken.
  - ii. Runoff from all hardstand areas, (including on-grade and basement car parking and hardstand landscaping areas and excluding roof areas) must be treated to remove oil and sediment contaminants prior to discharge to the public realm, with treatment provisions designed in accordance with Council's Development Design Specification D7 - *Stormwater Quality*, Section D7.12. Engineering details of proposed "end of line" devices, including maintenance schedules, shall be submitted with a s68 Stormwater Application for approval prior to issue of a Construction Certificate.
  - iii. Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly.

[PCC1105]

### 30. Stormwater

- (a) Details of the proposed roof water disposal for each stage of the development, 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 for Building Works.

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 D7.9 of Tweed Shire Councils 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:
  - i. 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]

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

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

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

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

[PCC1145]

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

A detailed Erosion and Sediment Control Plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality* shall be submitted with each Construction Certificate Application for Building works and Section 68 stormwater drainage application.

[PCC1155]

33. 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. This is applicable to proposed Lot 1.

[PCC1175]
34. Medium density/integrated developments, excluding developments containing less than four attached or detached dwellings and having a Building Code classification of 1a, will be required to provide a single bulk water service at the road frontage. Individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements. Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act, 2000 to be certified by an Accredited Certifier. This is applicable to proposed Lot 2 and proposed Lot 3.

[PCC1185]
35. 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 for Building Works, as applicable to each stage of the development.

[PCC1195]
36. 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 to Alter Councils Water or Sewer Infrastructure 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 for Building Works, applicable to each stage of development being issued.

[PCC1310]

37. If the development is likely to disturb or impact upon telecommunications infrastructure, 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.

The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.

[PCC1325]

38. Prior to the issue of a Construction Certificate for Building Works for each stage of development, application shall be made to Council under Section 305 of the Water Management Act 2000 for a certificate of compliance for development to be carried out i.e. the provision of water and sewerage to the development, as applicable.
1. Following this, requirements shall be issued by Council under Section 306 of the Water Management Act 2000.
  2. 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]

39. Should the existing 150mm diameter water stub not be suitable for connection, a section 68 application to alter Councils existing infrastructure shall be submitted to Councils for the disconnection the existing 150 diameter water service to be removed by Council at the expense of the developer.

40. Prior to issue of a construction certificate a construction management plan shall be submitted to the satisfaction of the General Manager or his delegate. The plan shall address all relevant issues, including classification/disposal of excavated waste/spoil materials. All works shall comply with the approved plan.

[PCCNS01]

41. The design of the proposed awnings over the footpath areas in Cylinders Drive and Ocean Avenue are to be modified prior to the issue of a Construction Certificate. Any supporting posts and aluminum mesh panels are not to be placed in the road reserve/footpath. The design should be modified to cantilever these awnings from the building over the footpath.

[PCCNS02]

42. Prior to issue of a construction certificate an acoustic assessment from a suitably qualified person which considers relevant activities including mechanical equipment, vehicle movements, pool, gymnasium, waste collection, 1800mm high fence on northern boundary, car park exhaust vent location and hours of operation of commercial activities shall be submitted to the satisfaction of the

General Manger or his delegate. Construction and operation of the development shall comply with the recommendations of the approved acoustic assessment.

[PCCNS03]

43. A Construction Waste Management Plan (CWMP) will be required prior to Construction Certificate issue and the provisions of Tweed Shire Council Development Control Plan Section A15 - Waste Minimisation and Management must be complied with for the life of the use.
44. All storage areas for bicycle storage shall be designed to allow access despite the presence of a vehicle in the adjoining carparking space. Details to the satisfaction of the General Manager or delegate shall be provided to Council prior to the issue of the Construction Certificate.

[PCCNS04]

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

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

[PCW0005]

46. 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]

47. 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]

48. 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]

49. 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]

50. 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]

51. 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]

52. 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]

53. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

54. 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 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

55. All proposed works are to be carried out in accordance with the conditions of development consent, approved Management Plans, approved Construction Certificate, drawings and specifications as applicable to each stage of development.

[DUR0005]

56. Construction of the 6.5m wide internal Right Of Carriageway access in Stage 1 to service the respective stages of the development, in accordance with the provision of Tweed Shire Council's Development Control Plan, Part A5 - Subdivision Manual and Council's Development Design and Construction Specifications.

[DUR0055]

57. Construction and/or demolition site work including the entering and leaving of 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]

58. 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]



59. 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]
60. 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]
61. 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 81A of the Environmental Planning and Assessment Act 1979.  
[DUR0405]
62. 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]
63. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited.  
[DUR0815]
64. 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]
65. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council's General Manager or his delegate.  
[DUR0985]
66. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles for each stage of the development. Any work carried out by Council to remove material deposited on the roadway by construction vehicles will be at the Developers expense and any such costs are payable prior to the issue of an Occupation Certificate for that stage of the development.  
[DUR0995]
67. 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]

68. Landscaping of the site shall be carried out in accordance with the submitted/approved landscaping plans.

[DUR1045]

69. A concrete footpath to a width approved by Tweed Shire Council is to be constructed on a compacted base along the entire frontage of the site to Nautilus Way in accordance with Councils Development Design and Construction Specifications and Standard Drawing SD013 during Stage 1, unless directed otherwise by Tweed Shire Council.

24 hours notice is to be given to Council's Engineering Division before placement of concrete to enable formwork and subgrade to be inspected.

[DUR1735]

70. 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]

71. The proponent must not undertake any work within the public road reserve without giving Council's Engineering Division 48 hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken. In addition an officer from Council's Engineering Division must meet with and/or inspect work undertaken within the road reserve at witness points to be determined by the officer. Inspections and re-inspections may attract additional fees which must be paid prior to the issue of a certificate of practical completion.

[DUR1845]

72. 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]

73. No portion of the structure may be erected over any existing sillage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.

[DUR1945]

74. 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](http://www.swimmingpoolregister.nsw.gov.au).  
[DUR2075]
75. Backwash from the swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.  
[DUR2085]
76. The swimming pool is to be sited at least one metre horizontally clear of sewer main on site. Any part of the structure within the area of influence of the sewer main is to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design will ensure that all loads will be transferred to the foundation material and will not affect or be affected by the sewer main.  
[DUR2095]
77. 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]
78. A garbage storage area shall be provided in accordance with Council's "Development Control Plan Section A15 - Waste Minimisation and Management".  
[DUR2195]
79. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.
- Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.
- This inspection program is to be maintained until Council is satisfied that the site is fully rehabilitated.  
[DUR2375]
80. 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]
81. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, including infiltration pits, prior to backfilling. The proponent shall liaise with Councils Engineering Division to arrange a suitable inspection.  
[DUR2445]

82. 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]

83. 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]

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

[DUR2505]

85. 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]

86. 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]

87. 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]

88. The structure is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not affect or be affected by the sewer main.

[DUR2645]

89. The Applicant shall submit the appropriate 'Application for Water Service Connection' to Council's Water Unit to facilitate a property service water connection for proposed Lot 1 on existing Lot 55 DP 1145386, from the existing water main in Nautilus Way. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.
90. The Applicant shall submit the appropriate 'Application for Water Service Connection' to Council's Water Unit to facilitate a property service water connection for proposed Lot 2 on existing Lot 54 DP 1145386, from the existing water main in Nautilus Way. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.
91. The Applicant shall submit the appropriate 'Application for Water Service Connection' to Council's Water Unit to facilitate a property service water connection for proposed Lot 3 on existing Lot 54 DP 1145386, from the existing water main in Nautilus Way. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.

92. Dust and Erosion Management

All construction activities that generate dust shall cease when average wind speeds exceed 15m/s (54 km/h). The applicant shall be responsible for the monitoring of on-site wind speeds and be able to produce this data to Council on request.

[DUR2825]

93. 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 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, non-interlocking paving, concrete slab with construction joints along the alignment of the sewer easement 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 meter in height at maturity are not permitted within the sewer easement to prevent the tree roots intruding into sewer mains and internal sewer pipes. Landscaping

within sewer easements shall be of a minor nature designed to ensure they do not damage or interfere with any part of the pipeline.

[DURNS01]

94. The stormwater drainage connection(s) to Council's public stormwater drainage are to be installed in accordance with Tweed Shire Council Development Construction Specifications C220, C221 and C223 and Tweed Shire Council Standard drawing 102 and S.D.022. The edges of trenches across existing paved surfaces on public land are to be saw cut and pavement surfaces restored to their existing condition. A post construction CCTV inspection of all pipe drainage infrastructure installed within a public easement or road reserve area shall be completed (as per C223 requirements) and submitted to Council for review prior to practical completion. In addition prior to the issue of an Occupation Certificate, Work as Executed (WAE) Plans shall be submitted in accordance with the provisions of Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design Specification, D5 and D7 - Engineering Plans. The plans are to be endorsed by a Professional Engineer (Civil) with National Engineering Register (NER) or a Registered Surveyor.

[DURNS02]

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

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

[POC0005]

96. 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 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

97. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

98. 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]

99. 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]

100. 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]

101. Prior to the issue of an Occupation Certificate for Stage 1, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 138 of the Roads Act 1993.

[POC0745]

102. 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]

103. Prior to the issue of an Occupation Certificate for each stage of development, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent Stormwater Quality Control Devices and infiltration pits, as applicable.

[POC0985]

104. 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]

105. Prior to occupation the applicant or business operator is to be registered in Council's Public Swimming Pool Register and pay the appropriate fee under Council's schedule of fees and charges.

[POC1095]

106. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the relevant stage of development shall be repaired in accordance with Council's Development Design and Construction Specifications, prior to the issue of an Occupation Certificate for that stage.

[POCNS01]

107. Prior to the issue of an Occupation Certificate for Stage 1 of the development, a Subdivision Certificate for the creation of the 3 Torrens Title allotments (including but not limit to the 6.5m Right of Carriageway for applicable access) shall be obtained from Council and registered with the Lands and Property Information (LPI) (formerly the Lands Titles Office).

[POCSN02]

## USE

108. 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]
109. The  $L_{Aeq, 15 \text{ min}}$  noise level emitted from the premises shall not exceed the background noise level ( $L_{A90}$ ) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends. [USE0165]
110. 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]
111. 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]
112. 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]
113. 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]
114. All loading/unloading to take place within the boundary of the subject property. [USE0525]
115. All mechanical ventilation shall comply with AS1668.2 Ventilation Requirements. [USE0845]



116. All commercial / industrial / residential wastes shall be collected, stored and disposed of the General Manager or his delegate. [USE0875]
117. The public swimming pool shall be operated in accordance with the Public Health Act 2010, Part 3 of the Public Health Regulation 2012 and the current NSW Health Public Swimming Pool and Spa Pool Advisory Document, NSW Ministry of Health 2012. [USE0985]
118. Footpath dining activities shall not be carried out unless a Footpath Dining License Agreement has been approved by the General Manager or his delegate. Footpath dining activities shall be restricted to the approved footpath dining area and carried out in accordance with Councils adopted Footpath Dining Policy. [USE1105]
119. A minimum two (2) metre wide clear unobstructed pedestrian pathway shall be maintained on the footpath. [USE1115]
120. Swimming Pools (Building)
- (a) It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).
  - (b) The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).
  - (c) Warning notices required under Part 3 of the Swimming Pool Regulations 2008 shall be maintained at all times. [USE1295]
121. Swimming pool pumps, air conditioning units, heat pump water systems and the like shall not be operated if it can be heard in a habitable room of a residence during restricted hours or at other times should the noise from the article be deemed to be offensive as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008. [USE1510]
122. The Multi Purpose room within Unit 1 of the Residential Flat Building shall not be used as a bedroom.
123. The commercial hours of operation for the development will be limited to between 8am to 9pm 7 days a week. Further modification to these hours may be imposed subject to the outcomes of the Acoustic Report required prior to the release of the Construction Certificate. All deliveries and pickups relating to the business are to occur within the approved hours. [USENS01]

**PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

124. Prior to issue of a Subdivision Certificate, all works/actions/inspections / conditions of consent associated with the subdivisional component of the development shall be completed in accordance with those conditions or plans.

[PSC0005]

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

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

BELOW IS ADVICE ONLY

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

Stage 1

Water:	2.4 ET @ \$13,632 =	\$32,716.80
Water Levy:	2.4 ET @ \$344 =	\$825.60
Sewer:	3.0 ET @ \$6,549 =	\$19,647.00

Stage 2

Water:	11.212 ET @ \$13,632 =	\$152,842.00
Water Levy:	11.212 ET @ \$344 =	\$3856.90
Sewer:	14.118 ET @ \$6,549 =	92,458.80

Stage 3

Water:	5.1640 ET @ \$13,632 =	\$70,395.60
Water Levy:	5.1640 ET @ \$344 =	\$1,776.40
Sewer:	6.5460 ET @ \$6,549 =	\$42,869.70

Total for all Stages

Water:	18.7760 ET @ \$13,632 =	\$255,954.40
Water Levy:	18.7760 ET @ \$344 =	\$6,458.90
Sewer:	23.664 ET @ \$6,549 =	\$154,975.50

[PSC0165]

126. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions associated with the subdivision component of this Development Consent have been complied with.

[PSC0825]

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

[PSC0845]

128. Prior to registration of the Plan of Subdivision, a Subdivision Certificate shall be obtained.

The following information must accompany an application:

- (a) original Plan of Subdivision prepared by a registered surveyor and 2 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.

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

[PSC0885]

129. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to all lots within the subdivision in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications and the Construction Certificate approval.

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

[PSC1115]

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**3 [PR-PC] Development Application DA16/0795 for a Two Lot Subdivision and Use of an Existing Structure as a Dwelling at Lot 7 DP 1178620 No. 2041 Kyogle Road, Terragon**

**ALTERNATE MOTION**

**P 119**

**Cr C Cherry  
Cr K Milne**

**PROPOSED** that Development Application DA16/0795 for a two lot subdivision and use of an existing structure as a dwelling at Lot 7 DP 1178620 No. 2041 Kyogle Road, Terragon, be approved subject to following conditions:

**"DEFERRED COMMENCEMENT"**

**This consent shall not operate** until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within **6 months** of the date of notification.

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

**SCHEDULE "A"**

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

- A. A report from an Accredited Building Surveyor detailing works required to the existing structure on proposed Lot 17 (including shipping containers to be utilised as bedrooms) to ensure the structure is able to comply with the requirements of the National Construction Code for Class 1 buildings.
- B. Plans of construction for the existing structure for proposed Lot 17 (floor plan, elevations, roof plans, sections etc.) that include any alterations that may be required to comply with the National Construction Code and BASIX requirements.
- C. An application for a Building Certificate for the existing structure for proposed Lot 17 is to be made to Council with the following information and reports:
  - i. A report from a Geotechnical Engineer that details the soil conditions at the perimeter of the existing structure.
  - ii. A report from a Structural Engineer that details the structural adequacy of the existing structure and that details any structural alterations that may be required to be completed to it prior to Occupation.
  - iii. The submission of an energy efficiency report from an energy efficiency specialist

specifying that the existing structure is able to comply with BASIX requirements. Particular reference should also be made to the habitable use of shipping containers that form part of the existing structure. Such report should also be accompanied by the actual BASIX Certificate for the existing structure.

- iv. Certification in relation to the adequacy of; smoke alarms, termite protection, glazing and waterproofing.
- v. A report from a quantity surveyor that details the value of all unauthorised building works on the site.
- vi. A Certificate of Compliance from a licensed plumber for all plumbing and drainage works on the site.
- vii. Clothes washing facilities shall be demonstrated to the satisfaction of the General Manager or his delegate.

### **SCHEDULE B**

**NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.**

#### **GENERAL**

1. This consent authorises the subdivision of Lot 7 DP 1178620 into two future allotments and the ongoing use of an existing structure on future Lot 17 for the purposes of a dwelling. The development shall be completed in accordance with the amended development application and Subdivision Plan No 21303 prepared by B & P Surveys and dated 5 July 2016, and any other plans ultimately approved as per Schedule A above, including Plans of Management, and Floor Plans, Elevations, Roof Plans, Sections for the existing structure on new Lot 17, except where varied by the conditions of this consent.  
[GENNS01]
2. The future house on proposed Lot 18 is to be the subject of a Development Application/Complying Development Certificate Approval as statutorily required only after the subdivision is registered and Lot 18 is lawfully created.  
[GENNS02]
3. The subdivision is to be carried out in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design and Construction Specifications.  
[GEN0125]
4. A roof catchment water supply source shall be provided for the domestic purposes where a Council reticulated supply is unavailable. Any domestic water supply roof collection system should be fitted with a first flush device and adequately maintained to ensure a safe and suitable drinking water supply, where applicable. The minimum storage tank capacity shall reflect the dry seasonal periods experienced in the locality and shall be in addition to any fire fighting capacity requirements stipulated by the NSW Rural Fire Services. The minimum storage capacity required shall be 15,000L per bedroom with a minimum 20,000L to be provided.  
[GEN0310]

5. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works:
- (a) Provision of a standard rural residential access to service both identified dwelling sites, in accordance with Council's Development Control Plan - Section A2 "*Site Access and Parking Code*" and Council's "*Driveway Access to Property - Design Specification*" (current version).
  - (b) Bitumen or concrete sealing of the accesses from the existing road carriageway to the property boundary.

[GENNS03]

6. Erosion and Sediment Control shall be designed, installed and maintained 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".

[GENNS04]

7. Prior to the issue of a building certificate the applicant is required to lodge an application to install/operate an onsite sewerage management system under Section 68 of the Local Government Act 1993, for the existing structure for proposed Lot 17 and pay the appropriate fee and be issued with an approval.

Any approval to install an on site sewage treatment and disposal system shall comply with the recommended on site sewage treatment and disposal method as detailed in the Onsite Sewage Management Design Report HMC Environmental, April 2016 (HMC 2016.099.02 Revised) including all recommendations of that report and any addendum to the report or to the satisfaction of Councils General Manager or his delegate.

8. With reference to Figure 2 of *Habitat Restoration Plan Terragon dated January 2017 prepared by Bushland Restoration Services* all 'Vegetation Community' types identified as 1 to 7 on that plan are to collectively form and be described as the 'conservation area' for the purposes of this consent. The conservation area shall be protected and managed as a natural area for conservation in perpetuity. The conservation area shall be the subject of a habitat restoration program implemented in accordance with an approved Habitat Restoration Plan.

9. A Tree Survey Plan (TSP) shall be submitted to Council for approval by the General Manager or his delegate prior to the commencement of any works. The TSP shall be of appropriate scale identifying the following trees considered necessary to be removed to enable establishment of a bushfire asset protection zone (APZ) to the proposed dwelling on Lot 17 in accordance with the relevant NSW Rural Fire Service (NSW RFS) General Terms of Approval (GTA):

- Any local native trees greater than 200 mm diameter girth (measured at 1.4 m above ground)
- Any locally recognised preferred Koala food trees regardless of height or girth being either *Eucalyptus robusta* (Swamp Mahogany) (including hybrids), *Eucalyptus tereticornis* (Forest Red Gum), *Eucalyptus propinqua* (Small-fruited Grey Gum) or *Eucalyptus microcorys* (Tallowwood)

The TSP shall:

- (a) Be prepared in liaison with a NSW Bushfire Planning & Design accredited professional;
  - (b) Demonstrate the minimum extent of disturbance necessary to achieve required asset protection zone standards;
  - (c) Details of any earthworks required to comply with the NSW RFS GTA specifically terracing to enable suitable access to enable the ongoing maintenance of the APZ;
  - (e) Where possible seek to retain within the asset protection zone local preferred Koala food trees and/or trees with hollows or evidence of arboreal fauna occupation/use
  - (f) Provide species name, common name, height and girth and description of habitat features of each tree identified to be removed
  - (g) Be overlaid on the proposed plan of development to show the dimensions and outline of the APZ in accordance with the NSW RFS GTA's
10. A Vegetation and Fauna Management Plan (V&FMP) for areas impacted by the dwelling and associated access roads and the 50m buffer around such shall be prepared by a suitably qualified ecologist to be implemented during the construction and operational phase (where specified) of the development. The V&FMP shall be submitted and approved by Council's General Manager or delegate prior to the commencement of any works. The V&FMP shall integrate and be consistent with key elements of the approved Tree Survey Plan, approved Site Based Koala Plan of Management and Habitat Restoration Plan. The following (but not be limited to) details shall be addressed in the V&FMP.

Vegetation Management

- a. Particulars and locations of vegetation to be removed and vegetation to be retained in order to facilitate the development;
- b. A statement of the reasons why the damage is necessary and any relevant factors associated with the purpose of the proposed damage;
- c. Details of all proposed infrastructure, site access and services;
- d. Details of strategies and methods to be implemented to protect vegetation to be retained generally consistent with Australian Standard AS 4970-2009 Protection of trees on development sites;
- e. Quantification of compensatory planting applied to all trees identified to be removed on the approved TSP. Compensatory plantings shall:
  - i. Be calculated at a ratio of 1:16 (remove:replace);
  - ii. Aim to replace the same species removed;
  - iii. Be installed within the approved conservation zone in accordance with the Habitat Restoration Plan;
- f. Methods for the reuse of felled vegetation from the subject site;

- g. Disposal methods for remaining debris after the above methods have been employed;
  - h. Specify that all trees to be removed are to be clearly marked prior to any clearing activity.
11. The Habitat Restoration Plan (HRP) dated January 2017 prepared by Bushland Restoration Services be accepted as the required Habitat Restoration Plan for future conservation purposes.
  12. All pre-construction vegetation and fauna management measures shall be satisfactorily completed in accordance with the approved Vegetation and Fauna Management Plan
  13. Certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning And Design (BPAD) certified practitioner, must be submitted to Council, confirming that the dwelling, associated access and Asset Protection Zones in accordance with approved Tree Survey Plan on Lot 17 complies with the Rural Fire Service's General Terms of Approval imposed under Section 100B of the Rural Fires Act 1997 on the consent.
  14. Environmental restoration works shall be completed to a level specified in the approved Habitat Restoration Plan prior to the issue of the first of any occupation certificate or release of subdivision certificate whichever occurs first and shall be maintained at all times in accordance with the approved plans.
  15. A building certificate for the existing dwelling on future Lot 17 shall not be issued until all conditions are met.
  16. The existing dwelling on future Lot 17 cannot be occupied until an Engineering Report demonstrates it is safe for habitation and all Bushfire safety requirements have been met.

## **DURING CONSTRUCTION**

17. Construction and/or demolition site work including the entering and leaving of 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 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]

19. The spa pool is to be installed and access thereto restricted in accordance with Council's "Code for the Installation of New Swimming Pools" and Australian Standard AS 1926.1 - 2012 & AS 1926.2 -2007, the Swimming Pool Act 1992 and the Swimming Pool Regulation 2008. Once your pool or spa is complete please register it at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au).
20. The habitat restoration works shall be maintained at all times to the satisfaction of the Council's General Manager or delegate.
21. All operations must comply with the approved Vegetation and Fauna Management Plan. In the event that any threatened species, populations, ecological communities or their habitats not addressed in the report are discovered during operations appropriate Plans of Management for those species must be formulated to the satisfaction of the General Manager or delegate and/or if required the Department of Environment and Heritage. No further site clearing will take place until any respective Plan(s) of Management is/are approved
22. The conservation zone shall be afforded adequate protection during the construction phase.

## USE

23. 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]
24. 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]
25. The additional shipping containers located on Lot 17 marked as 'Storage Containers' on the site plan submitted on 22 May 2017 (on either side of the spa), shall not to be used or adapted for separate residential habitation or occupation.  
[USE0465]
26. The building on future Lot 17 is to be used for single dwelling purposes only.  
[USE0505]
27. Bushfire asset protection zones are to be maintained around the house site at all times to the satisfaction of the NSW Rural Fire Service.  
[USE0575]
28. The use of the site must be consistent with the approved Plans of Management.  
[USENS02]

## PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

[PSC0005]

30. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 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 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgun Road, Murwillumbah and Brett Street, Tweed Heads.

- |   |              |
|---|--------------|
| (a) Tweed Road Contribution Plan:<br>6.5 Trips @ \$2723 per Trips<br>(\$2,534 base rate + \$189 indexation)<br>S94 Plan No. 4<br>Sector13_4 | \$12,400.43* |
| (b) Open Space (Casual):<br>1 ET @ \$564 per ET<br>(\$502 base rate + \$62 indexation)<br>S94 Plan No. 5                                    | \$400.44*    |
| (c) Open Space (Structured):<br>1 ET @ \$645 per ET<br>(\$575 base rate + \$70 indexation)<br>S94 Plan No. 5                                | \$457.95*    |
| (d) Shirewide Library Facilities:<br>1 ET @ \$869 per ET<br>(\$792 base rate + \$77 indexation)<br>S94 Plan No. 11                          | \$616.99*    |
| (e) Eviron Cemetery:<br>1 ET @ \$127 per ET<br>(\$101 base rate + \$26 indexation)<br>S94 Plan No. 13                                       | \$90.17*     |

- |     |  |             |
|-----|--|-------------|
| (f) | Community Facilities (Tweed Coast - North)<br>1 ET @ \$1457 per ET<br>(\$1,305.60 base rate + \$151.40 indexation)<br>S94 Plan No. 15  | \$1,034.47* |
| (g) | Extensions to Council Administration Offices<br>& Technical Support Facilities<br>1 ET @ \$1935.62 per ET<br>(\$1,759.90 base rate + \$175.72 indexation)<br>S94 Plan No. 18 | \$1,374.29* |
| (h) | Regional Open Space (Casual)<br>1 ET @ \$1132 per ET<br>(\$1,031 base rate + \$101 indexation)<br>S94 Plan No. 26  | \$803.72*   |
| (i) | Regional Open Space (Structured):<br>1 ET @ \$3974 per ET<br>(\$3,619 base rate + \$355 indexation)<br>S94 Plan No. 26   | \$2,821.54* |

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

[PSC0175]

31. Any damage to property (including Kyogle Road) as a result of the development is to be rectified to the satisfaction of the General Manager or his delegate prior to the issue of a Subdivision Certificate. Any work carried out by Council to remove material from the roadway will be at the Developer's expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[PSC0725]

32. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.

[PSC0825]

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

[PSC0830]

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

- (a) Positive Covenant over the subject land (as applicable) to ensure that the required provisions of the "Planning for Bushfire Protection 2006 "Guidelines and

the General Terms of Approval of the Consent as imposed under Section 100B of the Rural Fires Act 1997 are enforced in perpetuity.

- (b) Restriction As To User to notify future owners that reticulated sewer is not available to the site and any future dwelling will be required to provide On-Site Sewerage Management in accordance with Council's On-Site Sewerage Management policy.
- (c) Restriction As To User to notify future owners that reticulated water supply is not available to the site and any future dwelling will be required to provide a roofwater supply system in accordance with Council's policies and Bushfire Planning requirements (the minimum storage capacity required shall be 15,000L per bedroom with a minimum 20,000L to be provided).
- (d) Restriction as to user – all fauna management measures prescribed in the approved Site Based Koala Plan of Management shall be complied with at all times

Burden: Lot 17 and Lot 18. Benefit: Tweed Shire Council

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

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

[PSC0835]

- 35. Submit to Council's Property Officer for approval an appropriate plan indicating the street/road address number to both proposed and existing lots. In accordance with clause 60 of the Surveying and Spatial Information Regulation 2012 the Plan of Subdivision (Deposited Plan) shall show the approved street address for each lot in the new Deposited Plan.
- 36. Furthermore, prior to the issue of a Subdivision Certificate, each lot shall have its' address number displayed in accordance with Council's procedure on street numbering.
- 37. Prior to registration of the Plan of Subdivision, a **Subdivision Certificate** shall be obtained.

[PSC0845]

The following information must accompany an application:

- (a) original Plan of Subdivision prepared by a registered surveyor and 2 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.

- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.

[PSC0885]

38. Any boundary fence encroaching into the Kyogle Road road reserve along the developments, deemed by Council to be a safety risk is to be relocated to the correct alignment prior to issuing a Subdivision Certificate. Any road widening deemed necessary shall be dedicated at no cost to Council.

[PSC0945]

39. The production of written evidence from the local telecommunications supply authority certifying that the provision of telecommunications at the front boundary of both allotments has been completed.

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

The NBN letter must reference:

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

[PSC1165]

40. The production of written evidence from the local electricity supply authority certifying that the reticulation of overhead electricity (rural subdivisions) and energising has been provided to each allotment.

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

Unless agreed otherwise by Council, the form must reference:

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

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

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

41. Environmental restoration works shall be completed to a level specified in the approved Habitat Restoration Plan prior to the release of subdivision certificate and shall be maintained at all times in accordance with the approved plans.

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

1. The development proposal is to comply with the subdivision layout identified on the drawing prepared by B & P Surveys titled 'Proposed Subdivision of Lot 7 in DP 1178620, 2041 Kyogle Road, Terragon' referenced M30653, sheet 1 of 2, revision D and dated 5th July, 2016.

### **Asset Protection Zones**

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

2. At the issue of subdivision certificate and in perpetuity, the land surrounding the dwelling on proposed Lot 17 shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones' as follows:
  - north for a distance of 52 metres as an IPA;
  - south for a distance of 21 metres as an IPA;
  - east for a distance of 62 metres as an IPA; and
  - west for a distance of 52 metres as an IPA.
3. A restriction to the land use, pursuant to section 88B of the 'Conveyancing Act 1919', shall be placed upon proposed Lot 18 identifying:
  - a building envelope as identified on the plan prepared by B & P Surveys titled 'Proposed Subdivision of Lot 7 in DP 1178620, 2041 Kyogle Road, Terragon' referenced M30653, sheet 1 of 2, revision D and dated 5th July, 2016; and
  - an asset protection zone around the building envelope for a distance of 19 metres to the north and east and 21 metres to the south and west.

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

4. For asset protection zones (APZ) on slopes greater than 18 degrees, the property shall be landscaped or managed (e.g. terracing) with suitable access being provided to the APZ to ensure the ongoing maintenance of the area. Details of landscaping plans are to be submitted for approval to Council/or the principal certifier with the construction certificate.

## Water and Utilities

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

5. In recognition that no reticulated water supply is available to the development, a total of 20,000 litres fire fighting water supply shall be provided to the dwelling on proposed Lot 17 for fire fighting purposes. The fire fighting water supply shall be installed and maintained in the following manner:
  - a) Fire fighting water supply tank(s) shall be located not less than 5 metres and not more than 20 metres from the approved structure.
  - b) New above ground fire fighting water supply storage's are to be manufactured using non combustible material (concrete, metal, etc). Where existing fire fighting water supply storage's are constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials, they shall be shielded from the impact of radiant heat and direct flame contact.
  - c) Non combustible materials (concrete, metal, etc) will only be used to elevate or raise fire fighting water supply tank(s) above the natural ground level.
  - d) A 65 mm metal Storz outlet with a gate or ball valve shall be fitted to any fire fighting water supply tank(s) and accessible for a fire fighting truck.
  - e) The gate or ball valve, pipes and tank penetration are adequate for the full 50 mm inner diameter water flow through the Storz fitting and are constructed of a metal material.
  - f) All associated fittings to the fire fighting water supply tank(s) shall be non-combustible.
  - g) Any below ground fire fighting water supply tank(s) constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials shall be shielded from the impact of radiant heat and direct flame contact.
  - h) A hardened ground surface for fire fighting truck access is to be constructed up to and within 4 metres of the fire fighting water supply (tank or Storz fitting).
  - i) Any fire fighting water supply tank(s) located below ground shall be clearly delineated to prevent vehicles being driven over the tank.
  - j) All water supplies for fire fighting purposes shall be clearly signposted as a fire fighting water supply.
  - k) Below ground fire fighting water supply tank(s) shall have an access hole measuring a minimum 200 mm x 200 mm to allow fire fighting trucks to access water direct from the tank.

- l) Fire fighting water supply tank(s) and associated fittings, located within 60 metres of a bushfire hazard and on the hazard side of an approved building, shall be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for fire fighters.
- m) A minimum 5hp or 3kW petrol or diesel powered pump(s) shall be made available to the water supply. A 19mm (internal diameter) fire hose(s) and/or reel(s) shall be connected to the pump. Fire hose(s) and/or reel(s) must be installed so that each elevation of the building can be reached by a fire hose(s). The fire hose(s) and/or reel(s) must be constructed in accordance with 'AS/NZS 1221:1997, Fire hose reels' and shall be installed in accordance with 'AS 2441:2005 Installation of fire hose reels'.
- n) Pumps are to be shielded from the direct impacts of bush fire.
- o) A Static Water Supply (SWS) sign shall be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:
  - i. Markers must be fixed in a suitable location so as to be highly visible; and
  - ii. Markers should be positioned adjacent to the most appropriate access for the water supply.

Note: The definition of below ground dedicated fire fighting water supply tank(s) is when the outlet valve is located below natural ground level.

6. In recognition that the dwelling on proposed Lot 17 may be connected to a gas supply, the following requirements are to be complied with:
- a) Reticulated or bottled gas is to be installed and maintained in accordance with the current Australian Standard AS/NZS 1596: 'The storage and handling of LP gas' and the requirements of relevant authorities. Metal piping is to be used.
  - b) All fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and be shielded on the hazard side of the installation.
  - c) Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal.
  - d) Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.
7. Any alteration to electricity supply shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

## Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:



8. Property access road to the dwelling on proposed Lot 17 shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006', except:
- an alternative property access road is not required;
  - reversing bay may be provided in lieu of a loop road around the dwelling or a turning circle. Where a reversing bay is provided it shall be not less than 6 metres wide and 8 metres deep with an inner minimum turning radius of 6 metres and outer minimum radius of 12 metres; and
  - where the grade of the property access road exceeds 10 degrees, the section of the road shall be sealed with a bitumen surface.

### **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:

9. Construction of the dwelling on proposed Lot 17 shall comply with Sections 3 and 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

### **Landscaping**

10. Landscaping to proposed Lot 17 is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

### **AMENDMENT 1**

#### **P 120**

**Cr W Polglase**

**Cr J Owen**

**RECOMMENDED** that this item be deferred to the Planning Committee meeting of 7 December 2017.

Amendment 1 was **Carried**

***FOR VOTE - Unanimous***

Amendment 1 on becoming the Motion was **Carried** - (Minute No P 120 refers)

***FOR VOTE - Unanimous***

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**4 [PR-PC] Rural Land Strategy - Draft Strategy for Public Exhibition**

**P 121**

**Cr W Polglase**

**Cr J Owen**

**PROPOSED** that:

1. The draft Tweed Rural Land Strategy 2036, as attached to this report, be placed on public exhibition for a period not less than 42 days, and
2. A further, post exhibition, report is to be prepared for Council's consideration for the adoption of the draft Tweed Rural Land Strategy 2036. This report is to address any public submission received during public exhibition and is to detail the first of the Strategy's implementation.

**AMENDMENT 1**

**P 122**

**Cr K Milne**

**Cr C Cherry**

**RECOMMENDED** that:

1. The draft Tweed Rural Land Strategy 2036, as attached to this report be amended as below and be placed on public exhibition at the earliest possible time until 28 February 2018:

- **Action 77 Major Rural Based Events**  
Suggested Staff amendment - Special Rural Based Events be retitled - **Small Rural Based Events**

- **Extractive Industries**

Amend the Intent to:

Ensure that extractive industries have minimal impact on the community, that Aboriginal Cultural Heritage is protected in accordance with the Council's Aboriginal Cultural Heritage Management Plan, and that scenic and environmental qualities are provided special protection in accordance with the values of the community and the local, state, national and international significance of the Shire and as a recognised National Iconic Landscape.

- **Outcomes**

Point 2 add at the end: **'where necessary to service local resource needs'**.

Point 4 amend: **'No net impact and rehabilitation of degraded lands occurs at the earliest time possible'**.

Point 5 Add at the end **'and the quality and quantity of groundwater is maintained or improved'**.

- **Key Actions**

Point 2 add at end: **'where necessary to service local resource needs, and protect the cultural heritage, scenic, environmental and amenity values of the Shire'**.

Point 3 amend after CSG Strategic Release Framework to **'and reiterate Council's strong stance against CSG mining.'**

Point 4 replace best practice with **'leading world best practice'**

Add a point 5 **remove water bottling facilities from the LEP**

and the implementation plan be amended to be consistent with the above.

2. A further, post exhibition, report is to be prepared for Council's consideration for the adoption of the draft Tweed Rural Land Strategy 2036. This report is to address any public submission received during public exhibition and is to detail the first of the Strategy's implementation.

Amendment 1 was **Carried**

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

Amendment 1 on becoming the Motion was **Carried** - (Minute No P 122 refers)

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

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## **5 [PR-PC] Mooball Design Guidelines**

**P 123**

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

**RECOMMENDED** that:

1. The Proponent's Draft Mooball Development Design Guideline is to be publicly exhibited for a minimum period of 28 days;
2. During the public exhibition one local community workshop is to be undertaken by Council in conjunction with the proponent;

3. During the public exhibition Council staff should aim to finalise their review of the Draft Mooball Development Design Guidelines and provide formal feedback to the Proponent;
4. A further report detailing the outcome of the public exhibition be prepared; and
5. The request to vary the terms of the Mooball Planning Agreement detailed in the Planit Consulting letter of 13 October 2017 is received and noted.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**6 [PR-PC] Short Term Rental Accommodation - 6 Beason Court, Casuarina**

**P 124**

**Cr W Polglase**

**Cr P Allsop**

**RECOMMENDED** that in relation to the unauthorised land use at 6 Beason Court Casuarina, legal advice be sought regarding options for action (including but not limited to Orders) to cease the continued unauthorised use and this advice be acted upon.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**7 [PR-PC] River Retreat Caravan Park - Planning Agreement**

**P 125**

**Cr W Polglase**

**Cr P Allsop**

**RECOMMENDED** that Council:

1. Endorses the exhibited River Retreat Caravan Park Planning Agreement, and grants delegated authority to the General Manager to execute the Agreement at the earliest time; and
2. Supports referral of the executed Planning Agreement and the River Retreat Caravan Park Planning Proposal (PP15/0006) to the Department of Planning and Environment requesting that the Tweed Local Environmental Plan Amendment No. 18 be made.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**8 [PR-PC] Unauthorised Vegetation Removal at Lot 1 DP 1001025 No. 337 Round Mountain Road, Round Mountain**

**P 126**

**Cr W Polglase  
Cr R Cooper**

**RECOMMENDED** that, in relation to the unauthorised vegetation removal relating to the common boundary of Lot 1 DP 1001025 No. 337 Round Mountain Road, Round Mountain and Council owned land at Lot 2 DP 1087664, legal advice be sought regarding options for enforcement and possible legal action.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**9 [PR-PC] Unauthorised Land Use and Development at Lot 5 DP 871177 No. 102 Crooks Valley Road, Crystal Creek**

**P 127**

**Cr W Polglase  
Cr J Owen**

**PROPOSED** that in relation to the unauthorised land use and development at Lot 5 DP 871177 No. 102 Crooks Valley Road, Crystal Creek, legal advice be sought regarding options for action (including but not limited to Orders to prevent continued unauthorised activities and possible punitive action for the events already carried out and the unauthorised works/structure) against the owners of Lot 5 DP 871177 No. 102 Crooks Valley Road, Crystal Creek.

**AMENDMENT 1**

**P 128**

**Cr K Milne  
Cr C Cherry**

**RECOMMENDED** that a warning letter for the unauthorised land use be issued and advice that approval should be gained for the use prior to any further events or fines will be considered and that Council does not consider this to be a temporary use or exempt and complying development.

Amendment 1 was **Carried**

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

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

Amendment 1 on becoming the Motion was **Carried** - (Minute No P 128 refers)

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

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

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

**P 129**

**Cr K Milne**

**Cr C Cherry**

**RECOMMENDED** that Council notes there are no variations for the month of September 2017 to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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There being no further business the Planning Committee Meeting terminated at 6.57pm.

