



TWEED
SHIRE COUNCIL

Mayor: Cr K Milne

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

Minutes

Planning Committee Meeting Thursday 6 December 2018

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - Section 4.15 Evaluation

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

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

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

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

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

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

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

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

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

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

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

(3A) **Development control plans**

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

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

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

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

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

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

(6) **Definitions**

In this section:

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

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The Meeting commenced at 5.33pm.

IN ATTENDANCE

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

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

ABORIGINAL STATEMENT

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

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

PRAYER

The meeting opened with a Prayer read by the Pastor Jacob Van der Stein.

"Stand up and praise the Lord your God, who is from everlasting to everlasting."

*Blessed be your glorious name, and may it be exalted above all blessing and praise.
6You alone are the Lord. You made the heavens, even the highest heavens, and all their starry host, the earth and all that is on it, the seas and all that is in them. You give life to everything, and the multitudes of heaven worship you.*

7You are the Lord God. Nehemiah 9:5-7

Lord God, it is good to acknowledge our countries' ancestral people, but is also important that we acknowledge you, for you are our creator. You created the stars, the earth and every living thing, and said it was good, and you created man-kind in your image and said it was very good. You created us to have a relationship with you, although we don't do that very well. You have said that 'If my people, which are called by my name, shall humble themselves, pray and seek my face and turn from their wicked ways, then I will hear from heaven, and will heal their land.' Lord we pray for our country, we pray that you bless our leaders, our Prime Minister, our State Government leaders, and our local leaders who are meeting here this evening. We pray that you give them wisdom and understanding to do their jobs well, to make decisions that will be for the good of our community, not only for the short-term but also for the future. Help our Councillors to work together, with the wisdom and skills that you give each of them so that good outcomes are achieved in this planning meeting.

Lord we give you thanks for this land that we live in, for its beauty, and for the freedoms we have. We especially pray for our farming communities, as they endure hardship from the drought, we pray that you will send rains on our land, to fill the streams, and dams,

to give hope to our farmers. We also pray for those in our land that have suffered losses due to the fires, that they will be able to recover and continue on. We pray for these things for you are our Hope and Comfort.

Amen."

APOLOGIES

Nil.

DISCLOSURE OF INTEREST

Cr C Cherry declared a Non-Significant, Non-Pecuniary Interest in Item 3 [PR-PC] Development Application DA16/0660 for a Water Extraction Facility at Lot 3 DP 1125925 Dungay Creek Road, Dungay. The nature of the interest is that Cr C Cherry made a submission on the original Application as a resident. The DA has changed significantly. Cr C Cherry will manage the Interest by remaining in the Chamber for discussion and voting on the merits of the item.

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

Nil.

SCHEDULE OF OUTSTANDING RESOLUTIONS

Nil.

ORDERS OF THE DAY

Nil.

REPORTS THROUGH THE GENERAL MANAGER

Nil.

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

SUSPENSION OF STANDING ORDERS

P 85

Cr K Milne
Cr R Cooper

RESOLVED that Standing Orders be suspended to deal with Items 7, 3, 4, 5, 6, 8 and 10 of the Agenda.

The Motion was **Carried**

FOR VOTE - Unanimous

- 7 **[PR-PC] Development Application DA18/0685 for a Concept Application for the New Tweed Valley Hospital and Stage 1 Works (NSW Planning & Environment Application No. SSD 9575) and SEPP to amend Tweed Local Environmental Plan 2014 at Lot 11 DP 1246853 No. 771 Cudgen Road, Cudgen**

ALTERNATE MOTION

P 86

**Cr R Cooper
Cr K Milne**

RECOMMENDED that Council:

1. Include in its submission that Council objects to the SEPP application and State Significant Development Application and that Council has resolved that it opposes the destruction of State Significant Farmland for hospital purposes on the grounds including but not limited to, that such development is prohibited when other feasible options exist (NCRP). Comments on the EIS by our professional staff are attached. Due to the very short exhibition period to examine such a complex 3000 page document, Council reserves the right to submit a supplementary report prior to the closing date for submissions should other issues subsequently emerge.
2. In regard to Development Application DA18/0685 for a concept application for new Tweed Valley Hospital and Stage 1 works (NSW Planning & Environment Application No. SSD 9575) and proposed State Environmental Planning Policy to amend Tweed Local Environmental Plan 2014 at Lot 11 DP 1246853 No. 771 Cudgen Road, Cudgen endorse the Draft Council Submission at Attachment 1.

The Motion was **Carried**

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

- 3 **[PR-PC] Development Application DA16/0660 for a Water Extraction Facility at Lot 3 DP 1125925 Dungay Creek Road, Dungay**

P 87

**Cr K Milne
Cr R Cooper**

RECOMMENDED that Development Application DA16/0660 for a water extraction facility at Lot 3 DP 1125925 Dungay Creek Road, Dungay be refused for the following reason:

1. The application has not satisfied Tweed LEP 2014 in regard to Clause 7.10 (e) Essential Services – Suitable Vehicular Access. Suitable vehicular access to and from the land for the required water transport vehicles is only available by traversing private land. Work is required on that private land and no satisfactory arrangements have been entered into to enable the works to be carried out and used for the purpose of the access road.
2. Pursuant to the NSW EP&A Act s4.15 a) i) the application has not satisfied Tweed LEP 2014 in regard to Clause 1.2 Aims of the Plan section a), b), c), d), e), f), g), and i) in that it has not been adequately established that the commercial extraction of groundwater for water bottling is a sustainable use of this resource, or that it will not have an adverse impact on natural water systems or the potential agricultural use of the land, the environment, or other groundwater or surface water users.
3. Pursuant to the NSW EP&A Act s4.15 a) i) the application has not satisfied Tweed LEP 2014 in regard to Clause 2.3 RU2 Zone objectives in that it has not been adequately established that the commercial extraction of groundwater for water bottling is a sustainable use of this resource, or that it will not impact on the environment, agricultural uses, or other groundwater or surface users, or that it maintains the rural landscape character of the land.
4. Pursuant to the NSW EP&A Act s4.15 a) i) the application has not satisfied Tweed LEP 2014 in regard to Clause 7.15 Water Bottling Facility in that it has not been adequately established that the commercial extraction of groundwater for water bottling will not have an adverse impact on impact on natural water systems or the potential agricultural use of the land in regard to the sustainable use of this resource, also noting that the State Government has recently announced a review by the NSW Chief Scientist of Water Extraction in the Northern Rivers Region.
5. Pursuant to the NSW EP&A Act s4.15 a) iii) the application has not satisfied Tweed DCP sA2 Site Access and Parking Code in regard the use of the rural road being unsuitable for trucks of the size, weight and frequency proposed.
6. Pursuant to the NSW EP&A Act s4.15 a) i) the application has not satisfied the SEPP (Rural Lands) 2008 in regard to the Aims of the Policy or the Planning Principles in that it has not been adequately established that the commercial extraction of groundwater for water bottling is a sustainable use of this resource, or that it will not impact on the environment, agricultural uses, or other groundwater or surface users.
7. Pursuant to the NSW EP&A Act s4.15 a) i) the application has not satisfied the NSW EP&A Act in regard to the Objects of the Act parts a), b), c), or e) in that it has not been adequately established that the commercial extraction of groundwater for water bottling is a sustainable use of this resource, or that it will not impact on the environment, agricultural uses, or other groundwater or surface users.
8. Pursuant to the NSW EP&A Act s4.15 b) the application has not adequately established that the commercial extraction of groundwater for water bottling is a sustainable use of this resource, or that it will not impact on the environment, agricultural uses, or other groundwater or surface users, and that the rural character and amenity of the area will not be adversely affected or that the rural road is suitable for the use.

9. Pursuant to the NSW EP&A Act s4.15 c) Suitability of the Site - The application has not adequately established that the commercial extraction of groundwater for water bottling is a sustainable use of this resource, or that it will not impact on the environment, agricultural uses, or other groundwater or surface users, that the rural character and amenity of the area will not be adversely affected or that the rural road is suitable for the use.
10. Pursuant to the NSW EP&A Act s4.15 d) there have been numerous submissions made in regard to the application that the application has not adequately established that the commercial extraction of groundwater for water bottling is a sustainable use of this resource, or that it will not impact on the environment, agricultural uses, or other groundwater or surface users, that the rural character and amenity of the area will not be adversely affected, or that the rural road is suitable for the use.
11. Pursuant to the NSW EP&A Act s4.15 e) there have been numerous submissions made in regard to the application that the application has not adequately established that the commercial extraction of groundwater for water bottling is a sustainable use of this resource, or that it will not impact on the environment, agricultural uses, or other groundwater or surface users, that the rural character and amenity of the area will not be adversely affected, or that the rural road is suitable for the use.

The Motion was **Carried**

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

4 [PR-PC] 8.2 Review of Determination of the Refusal of DA17/0805 for a Helipad at Lot 1 DP 735658; No. 477 Urliup Road Urliup

ALTERNATE MOTION

P 88

Cr K Milne
Cr C Cherry

RECOMMENDED that Development Application DA17/0805 for a helipad at Lot 1 DP 735658; No. 477 Urliup Road Bilambil be refused for the following reasons:

1. Pursuant to the NSW EP&A Act s4.15 a) i) The application has not provided sufficient information to assess the development as the acoustic report has not complied with current requirements for acoustic testing for helicopters, the single flight path proposed does not account for various wind conditions, and the curved path proposed should be confirmed as appropriate by Air Services Australia.
2. Pursuant to the NSW EP&A Act s4.15 a) i) Tweed LEP 2014 Clause 2.3 Zone Objectives as the development does not maintain the rural landscape character of the land.
3. Pursuant to the NSW EP&A Act s4.15 a) i) The application has not satisfied the SEPP (Rural Lands) 2008 in regard to the Aims of the Policy or the Planning Principles of the SEPP in regard to facilitating the orderly and economic use of the land, the proper

management, development and protection of rural lands, or measures to reduce land use conflicts.

4. Pursuant to the NSW EP&A Act s4.15 b) The development has not demonstrated that it will not have unacceptable impacts on the natural or built environments and social and economic impacts of the locality as the acoustic report is not consistent with current requirements.
5. Pursuant to the NSW EP&A Act s4.15 c) The application is not suitable for the site as it does not adequately demonstrate acoustic impacts or that it will not adversely affect the environment or the rural character and amenity of the area.
6. Pursuant to the NSW EP&A Act s4.15 d) The application will have a significant impact on the peaceful nature of the locality as highlighted by numerous public submissions during the exhibition period.
7. Pursuant to the NSW EP&A Act s4.15 e) The application is not in the public interest as it does not demonstrate compliance with acoustic testing requirements and will have significant impact on the environment, and the rural character and peaceful nature of the locality.

The Motion was **Carried**

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

5 [PR-PC] Development Application DA18/0637 for a helipad at Lot 1 DP 735658; No. 477 Urliup Road Bilambil

ALTERNATE MOTION

P 89

Cr K Milne
Cr C Cherry

RECOMMENDED that Development Application DA17/0805 for a helipad at Lot 1 DP 735658; No. 477 Urliup Road Bilambil be refused for the following reasons:

1. Pursuant to the NSW EP&A Act s4.15 a) i) The application has not provided sufficient information to assess the development as the acoustic report has not complied with current requirements for acoustic testing for helicopters, the single flight path proposed does not account for various wind conditions, and the curved path proposed should be confirmed as appropriate by Air Services Australia.
2. Pursuant to the NSW EP&A Act s4.15 a) i) Tweed LEP 2014 Clause 2.3 Zone Objectives as the development does not maintain the rural landscape character of the land.
3. Pursuant to the NSW EP&A Act s4.15 a) i) The application has not satisfied the SEPP (Rural Lands) 2008 in regard to the Aims of the Policy or the Planning Principles of the SEPP in regard to facilitating the orderly and economic use of the land, the proper

management, development and protection of rural lands, or measures to reduce land use conflicts.

4. Pursuant to the NSW EP&A Act s4.15 b) The development has not demonstrated that it will not have unacceptable impacts on the natural or built environments and social and economic impacts of the locality as the acoustic report is not consistent with current requirements.
5. Pursuant to the NSW EP&A Act s4.15 c) The application is not suitable for the site as it does not adequately demonstrate acoustic impacts or that it will not adversely affect the environment or the rural character and amenity of the area.
6. Pursuant to the NSW EP&A Act s4.15 d) The application will have a significant impact on the peaceful nature of the locality as highlighted by numerous public submissions during the exhibition period.
7. Pursuant to the NSW EP&A Act s4.15 e) The application is not in the public interest as it does not demonstrate compliance with acoustic testing requirements and will have significant impact on the environment, and the rural character and peaceful nature of the locality.

The Motion was **Carried**

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

6 [PR-PC] Development Application DA18/0910 for a Water Bottling Facility and Use of Existing Structures for the Purposes of Commercial Water Extraction at Lot 1 DP 735658; No. 477 Urliup Road Bilambil

ALTERNATE MOTION

P 90

Cr K Milne
Cr R Cooper

RECOMMENDED that Development Application DA18/0910 for a water bottling facility and use of existing structures for the purposes of commercial water extraction at Lot 1 DP 735658; No. 477 Urliup Road Bilambil be refused for the following reasons:

1. Pursuant to the NSW EP&A Act s4.15 a) i) the application has not satisfied Tweed LEP 2014 in regard to Clause 1.2 Aims of the Plan section a), b), c), d), e), f), g), and i) in that it has not been adequately established that the commercial extraction of groundwater for water bottling is a sustainable use of this resource, or that it will not have an adverse impact on natural water systems or the potential agricultural use of the land, the environment, or other groundwater or surface users.
 2. Pursuant to the NSW EP&A Act s4.15 a) i) the application has not satisfied Tweed LEP in regard to Clause 2.3 RU2 Zone objectives in that it has not been adequately
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established that the commercial extraction of groundwater for water bottling is a sustainable use of this resource, or that it will not impact on the environment, agricultural uses, or other groundwater or surface users, or that it maintains the rural landscape character of the land.

3. Pursuant to the NSW EP&A Act s4.15 a) i) the application has not satisfied Tweed LEP in regard to Clause 7.15 Water Bottling Facility in that it has not been adequately established that the commercial extraction of groundwater for water bottling will not have an adverse impact on impact on natural water systems or the potential agricultural use of the land in regard to the sustainable use of this resource, also noting that the State Government has recently announced a review by the NSW Chief Scientist of Water Extraction in the Northern Rivers Region.
4. Pursuant to the NSW EP&A Act s4.15 a) iii) the application has not satisfied Tweed DCP sA2 Site Access and Parking Code in regard the use of the rural road being unsuitable for trucks of the size, weight and frequency proposed.
5. Pursuant to the NSW EP&A Act s4.15 a) i) the application has not satisfied the SEPP (Rural Lands) 2008 in regard to the Aims of the Policy or the Planning Principles in that it has not been adequately established that the commercial extraction of groundwater for water bottling is a sustainable use of this resource, or that it will not impact on the environment, agricultural uses, or other groundwater or surface users.
6. Pursuant to the NSW EP&A Act s4.15 a) i) the application has not satisfied the NSW EP&A Act in regard to the Objects of the Act parts a), b), c), or e) in that it has not been adequately established that the commercial extraction of groundwater for water bottling is a sustainable use of this resource, or that it will not impact on the environment, agricultural uses, or other groundwater or surface users.
7. Pursuant to the NSW EP&A Act s4.15 b) the application has not adequately established that the commercial extraction of groundwater for water bottling is a sustainable use of this resource, or that it will not impact on the environment, agricultural uses, or other groundwater or surface users, and that the rural character and amenity of the area will not be adversely affected or that the rural road is suitable for the use.
8. Pursuant to the NSW EP&A Act s4.15 c) Suitability of the Site - The application has not adequately established that the commercial extraction of groundwater for water bottling is a sustainable use of this resource, or that it will not impact on the environment, agricultural uses, or other groundwater or surface users, that the rural character and amenity of the area will not be adversely affected or that the rural road is suitable for the use.
9. Pursuant to the NSW EP&A Act s4.15 d) there have been numerous submissions made in regard to the application that the application has not adequately established that the commercial extraction of groundwater for water bottling is a sustainable use of this resource, or that it will not impact on the environment, agricultural uses, or other groundwater or surface users, that the rural character and amenity of the area will not be adversely affected, or that the rural road is suitable for the use.
11. Pursuant to the NSW EP&A Act s4.15 e) there have been numerous submissions made in regard to the application that the application has not adequately established that the commercial extraction of groundwater for water bottling is a sustainable use of this

resource, or that it will not impact on the environment, agricultural uses, or other groundwater or surface users, that the rural character and amenity of the area will not be adversely affected, or that the rural road is suitable for the use.

The Motion was **Carried**

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

8 [PR-PC] Development Application DA16/0579.01 for an Amendment to Development Consent DA16/0579 for Alterations and Additions to Water Bottling Facility at Lot 1 DP 883113 & Lot 2 DP 883113; No. 2574 Kyogle Road Kunghur

ALTERNATE MOTION

P 91

Cr R Byrnes
Cr P Allsop

RECOMMENDED that Development Application DA16/0579.01 for an amendment to Development Consent DA16/0579 for alterations and additions to water bottling facility at Lot 1 DP 883113 & Lot 2 DP 883113; No. 2574 Kyogle Road Kunghur be approved by

- A. Altering the development description from "Alterations and Additions to Water Bottling Facility" to "Alterations and Additions to Water Bottling Facility in two (2) Stages". And
- B. Delete Condition 1 and replace with Condition 1A which reads as follows:
 - 1A. The development is to be undertaken in two stages as follows:
 - Stage 1 - installation of a water transfer pipe from Lot 1 DP 883113 to Lot 2 DP 883113, construction of a driveway and truck turnaround area, direct filling of water tankers from the water transfer pipe within the truck turnaround area and the export of bulk water supplies by water tanker from the site.
 - Stage 2 - Construction of a new shed for water bottling purposes and the completion of all environmental restoration works.
- C. That Council writes to the operators of Mount Warning Spring Water to request they provide water metering data and log books including but not limited to times that is auditable by Council.

[GEN0005]

The Motion was **Carried**

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

AMENDMENT 1

P 92

**Cr C Cherry
Cr K Milne**

PROPOSED that Development Application DA16/0579.01 for an amendment to Development Consent DA16/0579 for alterations and additions to water bottling facility at Lot 1 DP 883113 & Lot 2 DP 883113; No. 2574 Kyogle Road Kunghur be deferred to the next Council meeting to allow assessment of all of the submissions received during the submission period.

Amendment 1 was **Lost**

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

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

AMENDMENT 2

P 93

**Cr K Milne
Cr C Cherry**

PROPOSED that Council writes to the operators of Mount Warning Spring Water to request they lodge an amendment to their modification application to include a restriction on the size of trucks and the carrying capacity, operating hours of 7am-7pm weekdays only, and to provide metering, logbooks and CCTV detailing contemporary monitoring and reporting requirements.

Amendment 2 was **Lost**

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

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

ADJOURNMENT OF MEETING

Adjournment for dinner at 7.15 pm.

RESUMPTION OF MEETING

The Meeting resumed at 8.00pm

10 [PR-PC] Short Term Rental Accommodation at No. 13 Aeolus Lane Casuarina

AMENDMENT 1

P 94

**Cr C Cherry
Cr K Milne**

PROPOSED that:

1. in relation to the unauthorised land use at No. 13 Aeolus Lane Casuarina, that the complaints received so far be noted and are not yet defined as substantial ongoing or unreasonable impact on neighbouring properties. If further complaints are received that are found to be substantiated and that the matter be brought back to Council for consideration.
2. ATTACHMENTS 1-3 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

Amendment 1 was **Lost**

FOR VOTE - Cr K Milne, Cr C Cherry

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

PROCEDURAL MOTION

P 95

**Cr J Owen
Cr W Polglase**

RESOLVED that the Motion be put.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne, Cr C Cherry

P 96

**Cr R Cooper
Cr J Owen**

RECOMMENDED that:

1. in relation to the unauthorised land use at No. 13 Aeolus Lane Casuarina, legal advice be sought regarding options for action (including but not limited to Orders under NSW Environmental Planning and Assessment Act) to cease the continued unauthorised use and this advice be acted upon.

2. ATTACHMENTS 1-3 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

The Motion was **Carried**

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

RESUMPTION OF STANDING ORDERS

P 97

Cr K Milne
Cr J Owen

RESOLVED that Standing Orders be resumed.

FOR VOTE - Unanimous

- 1 [PR-PC] Development Application DA18/0320 for a Residential Flat Building Including Demolition of Existing Structures at Lot 10 Sec 3 DP 758571; No. 178 Marine Parade Kingscliff

P 98

Cr W Polglase
Cr P Allsop

RECOMMENDED that Development Application DA18/0320 for a residential flat building including demolition of existing structures at Lot 10 Sec 3 DP 758571; No. 178 Marine Parade Kingscliff be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and the following documents and plans prepared by Michael Witty Architects and dated March 2018, except where varied by the conditions of this consent:
- Site plan Issue C Dwg. No. SK01;
 - Basement plan Issue H Dwg. No. SK04;
 - Ground floor plan Issue J Dwg. No. SK05;
 - First and Second floor plans Issue G Dwg. No. SK06;
 - Roof top plan Issue G Dwg. No. SK07;
 - Roof plan Issue G Dwg. No. SK08;
 - North elevation Issue K Dwg. No. SK09;
 - East elevation Issue K Dwg. No. SK10;
 - South elevation Issue K Dwg. No. SK11;
 - West elevation Issue K Dwg. No. SK12;

- Section AA Issue H Dwg. No. SK13;
- Section BB Issue J Dwg. No. SK. 14;
- Garage door detail Issue A Dwg. No. SK17;

[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. Bushfire Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack in accordance with the stamped approved Bushfire Threat Assessment Report. To achieve this, the following conditions shall apply:

- (a) Construction shall comply with Australian Standard AS3959-2009 'Construction of buildings in Bush Fire-prone areas' and Planning for Bushfire Protection Policy 2006 with a construction Bushfire attack Level (BAL) of 12.5 for the building.

[GEN0335]

6. Application shall be made to Council under Section 305 of the Water Management Act 2000 for a certificate of compliance for development to be carried out - i.e.: the provision of water and sewerage to the development.

Note:

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

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.

[GEN0375]

7. The inspection opening for the existing sewer junction for Lot 10 Sec 3 DP 758571 shall be a trafficable lid to be constructed flush with the proposed driveway surface.

[GENNNS01]

8. 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".

[GENNS02]

9. 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 driveway access in accordance with Council's Development Control Plan - Section A2 "*Site Access and Parking Code*" and Council's standard drawing S.D. 017 - Driveway Access to properties Fronting Roads with Kerb & Gutter.
 - (b) Concrete footpath works in accordance with Council's standard drawing S.D. 013 - Footpath & Cycleway Details.

[GENNS03]

10. The proposal is to comply with the Waste Management Plan prepared by Planit Consulting and dated August 2018 unless otherwise approved by Council's General Manager or delegate.

[GENNS04]

11. The developer shall provide 14 car parking spaces and 2 visitor parking spaces in accordance with Tweed Shire Council's Development Control Plan Part A2 - *Site Access and Parking Code*.

The two visitor car parks shall clearly marked as visitor car parking / car wash bay. Full design detail of the proposed parking and manoeuvring areas including integrated landscaping shall be submitted to Tweed Shire Council and approved by the General Manager or his delegate prior to the issue of a Construction Certificate for Building Works.

[PCC0065]

12. Section 7.11 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 7.11 Contributions have been paid and the Certifying Authority has sighted Council's receipt confirming payment.

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

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

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

- (a) Tweed Road Contribution Plan:
 - 20.8 Trips @ \$1283 per Trips \$26,686
 - (\$1,137 base rate + \$146 indexation)
 - CP Plan No. 4
 - Sector6_4
- (b) West Kingscliff - Drainage:

0.0189 HA @ \$73559 per HA	\$1,390.27
(\$5,664.10 base rate + \$67,894.90 indexation)	
DCP Section B4	
CP Plan No. 7	
(c) West Kingscliff - Open Space:	
5.125 ET @ \$3612 per ET	\$18,512
(\$1,849 base rate + \$1,763 indexation)	
DCP Section B4	
CP Plan No. 7	
(d) Shirewide Library Facilities:	
5.125 ET @ \$933 per ET	\$4,782
(\$792 base rate + \$141 indexation)	
CP Plan No. 11	
(e) Bus Shelters:	
5.125 ET @ \$71 per ET	\$364
(\$60 base rate + \$11 indexation)	
CP Plan No. 12	
(f) Eviron Cemetery:	
5.125 ET @ \$135 per ET	\$692
(\$101 base rate + \$34 indexation)	
CP Plan No. 13	
(g) Community Facilities (Tweed Coast - North)	
5.125 ET @ \$1539 per ET	\$7,887
(\$1,305.60 base rate + \$233.40 indexation)	
CP Plan No. 15	
(h) Extensions to Council Administration Offices & Technical Support Facilities	
5.125 ET @ \$2187.14 per ET	\$11,209.09
(\$1,759.90 base rate + \$427.24 indexation)	
CP Plan No. 18	
(i) Cycleways:	
5.125 ET @ \$526 per ET	\$2,696
(\$447 base rate + \$79 indexation)	
CP Plan No. 22	
(j) Regional Open Space (Casual)	
5.125 ET @ \$1215 per ET	\$6,227
(\$1,031 base rate + \$184 indexation)	
CP Plan No. 26	
(k) Regional Open Space (Structured):	
5.125 ET @ \$4264 per ET	\$21,853

(\$3,619 base rate + \$645 indexation)

CP Plan No. 26

[PCC0215]

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

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

BELOW IS ADVICE ONLY

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

Water: 3.69 ET @ \$13,632 = \$50,302.10

Sewer: 6.0 ET @ \$ 6,549 = \$39,294.00

[PCC0265]

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

The landscape plan is to include fencing detail for all proposed fencing and demonstrate compliance with the fencing controls as specified in the NSW Apartment Design Guide.

[PCC0585]

15. The basement car parking is to be protected against the inflow of water to a level of 500mm above the Design Flood Level in accordance with Tweed Shire Council Development Control Plan Part A3 - Development of Flood Liable Land. This immunity shall be provided at all accesses including external stairs to the basement car park. The pump system shall be designed for a storm event with a 10 year average return interval (ARI 10) and shall have failsafe measures in place such that property (onsite and adjacent) is protected against pump failure. Consequences of the 100 year ARI storm event must also be addressed. Details of the basement stormwater pump-out system shall be submitted to and approved by the Principle Certifying Authority prior to the issue of a Construction Certificate for Building Works.

Installed pumps must be designed and installed in accordance with Section 9 of AS/NZS3500.3.2 1998 *"National Plumbing and Drainage - Part 3.2: Stormwater Drainage - Acceptable Solutions"*

[PCC0685]

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

[PCC0945]

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

- (a) The Construction Certificate Application for Building Works shall include a detailed Stormwater Management Plan (SWMP) for the occupational or use stage of the development in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.
- (c) The stormwater and site works shall incorporate Water Sensitive Urban Design principles and where practical, integrated water cycle management.
- (d) Specific Requirements to be detailed within the Construction Certificate application include:
- (e) Shake down area shall be installed within the property, immediately prior to any construction vehicles entering or exiting the site prior to any earthworks being undertaken along the haul route immediately before the intersection with the road reserve.
- (f) Runoff from all hardstand areas, (including 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. All permanent stormwater treatment devices must be sized according to Council's *Development Design Specification D7 - Stormwater Quality*, Section D7.12. Engineering details of the proposed devices, including maintenance schedules, shall be submitted with a s68 Stormwater Application for approval prior to issue of a Construction Certificate.
- (g) Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly.

[PCC1105]

18. 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]

19. The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be 200 l/s/ha. This can be achieved by On site stormwater detention (OSD) utilising above and or below ground storage. OSD devices including discharge control pits (DCP) are to comply with

standards in the current version of The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook" except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire.

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

[PCC1165]

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

[PCC1195]

21. If the development is likely to disturb or impact upon water or sewer infrastructure (e.g. extending, relocating or lowering of pipeline), written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.

Applications for these works must be submitted on Council's standard Section 68 Application form accompanied by the required attachments and the prescribed fee. The arrangements and costs associated with any adjustment to water and wastewater infrastructure shall be borne in full by the applicant/developer.

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

[PCC1310]

22. Prior to issue of a Construction Certificate the applicant is to provide to the nominated principal certifying authority the following:
- (a) Plans that clearly detail access to external terraces and balconies from internal living areas of the roof top unit;
 - (b) Details of measures to ensure adequate privacy is achieved for windows of Bedroom 1 of Units 2, 4 & 6.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0005]

24. An application is to be made to Council to temporarily "cap off" the existing building sewerage house drainage from Council's sewerage system, prior to any demolition work commencing. A Plumbing and Drainage Works on Private Land application form shall be submitted to Tweed Shire Council and payment of fees in accordance with Council's adopted fees and charges.

[PCW0045]

25. 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.
26. 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. [PCW0215]
- [PCW0225]
27. 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]

28. 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]

29. 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]

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

[PCW0665]

31. 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]

32. Dilapidation reports detailing the current general condition including the structural condition of the adjoining buildings/sites, infrastructure and driveway are to be prepared

and certified by a suitably qualified and experienced structural engineer. The reports are to be submitted to the nominated PCA prior to commencement of ANY works on the site.

[PCW0775]

33. 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]

DURING CONSTRUCTION

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

[DUR0005]

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

[DUR0025]

36. Commencement of work, including the switching on and operation of plant, machinery and vehicles is limited to the following hours, unless otherwise permitted by Council:

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

37. 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]

38. 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]

39. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:

- (a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
- (b) The chute shall be located in a position approved by the Principal Certifying Authority.
- (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.

[DUR0385]

40. 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]

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

[DUR0405]

42. 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]

43. Excavation

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

[DUR0425]

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

[DUR0495]

45. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of

the WorkCover NSW, Work Health and Safety Regulation 2011.

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

[DUR0645]

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

[DUR0815]

47. 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]

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

[DUR0995]

49. 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]

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

[DUR1015]

51. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.

[DUR1685]

52. Pursuant to the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with the relevant provisions of AS1428- Design for Access and Mobility.

[DUR1725]

53. A concrete footpath 1.2 metres wide is to be constructed on a compacted base along the entire frontage (Marine Parade) of the site in accordance with Councils Development Design and Construction Specifications and Standard Drawing SD013.

All disturbed areas in the verge shall be turfed to the satisfaction of 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]

54. 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]

55. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

55. 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]

57. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials.

[DUR2205]

58. 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]

59. 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]

60. 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]

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

[DUR2505]

62. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.

[DUR2525]

63. 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]

64. 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]
65. 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]

66. The Applicant shall submit the appropriate 'Application for Water Service Connection' to Council's Water Unit to facilitate a property service water connection for Lot 10 Sec 3 DP 758571, from the existing water main in Marine Parade. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.

[DUR2800]

67. Swimming pool pumps, air conditioning units, heat pump water systems and the like shall be located, installed and operated so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.

[DUR2835]

68. The exportation or importation of waste (including fill or soil) from or to the site must be in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW Environmental Protection Authority "Waste Classification Guidelines".

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

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

[POC0205]

71. 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]

72. 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]

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

[POC0355]

74. 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]

75. 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]

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

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

[POC0825]

77. 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]

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

[POC1055]

USE

79. 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]

80. 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. In this regard, the external air conditioning units are to be relocated to the rear of the building.

- [USE0175]
81. 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]
82. All wastes shall be collected, stored, and disposed of in accordance with any approved Waste Management Plan or to the satisfaction of the General Manager or his delegate.
- [USE0875]
83. 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]

The Motion was **Carried**

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

2 [PR-PC] Development Application DA18/0518 for Alterations and Additions to Upper Level of Existing Imperial Hotel at Lot 2 DP 596914; No. 115 Murwillumbah Street Murwillumbah

P 99

Cr P Allsop
Cr J Owen

RECOMMENDED that:

- A. Development Application DA18/0518 for alterations and additions to upper level of existing Imperial Hotel at Lot 2 DP 596914; No. 115 Murwillumbah Street Murwillumbah be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 895/18A, sheets 1, 2 and 4 prepared by Trevor White - building design and dated 15 March 2018, as amended in red, 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 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]

4. All works shall comply with AS2601-2001 Demolition of Structures and the Work Health and Safety Regulation 2011.

[GEN0360]

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

[GEN0365]

6. This development consent does not approve the installation of windows along the front verandah (first floor) of the Imperial Hotel. Any works with this regard must be undertaken in accordance with development consent DA04/0794.

[GENNS01]

7. Any works which may be required in accordance with an updated *Fire Engineering Report*, will be the subject of a separate Development Application (where statutorily required) and must be accompanied by an updated Statement of Heritage Impact.

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. Section 7.11 Contributions

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

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

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

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

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

(a)	Tweed Road Contribution Plan: 4.5563 Trips @ \$1488 per Trips ((\$1,317 base rate + \$171 indexation) CP Plan No. 4 Sector9_4	\$6,780
(b)	Open Space (Casual): 2.7083 ET @ \$624 per ET ((\$502 base rate + \$122 indexation) CP Plan No. 5	\$1,690
(c)	Shirewide Library Facilities: 2.7083 ET @ \$933 per ET ((\$792 base rate + \$141 indexation) CP Plan No. 11	\$2,527
(d)	Bus Shelters: 2.7083 ET @ \$71 per ET ((\$60 base rate + \$11 indexation) CP Plan No. 12	\$192
(e)	Community Facilities (Tweed Coast - North) 2.7083 ET @ \$1539 per ET ((\$1,305.60 base rate + \$233.40 indexation) CP Plan No. 15	\$4,168
(f)	Extensions to Council Administration Offices & Technical Support Facilities 2.7083 ET @ \$2187.14 per ET ((\$1,759.90 base rate + \$427.24 indexation) CP Plan No. 18	\$5,923.43
(g)	Cycleways: 2.7083 ET @ \$526 per ET ((\$447 base rate + \$79 indexation) CP Plan No. 22	\$1,425
(h)	Regional Open Space (Casual) 2.7083 ET @ \$1215 per ET ((\$1,031 base rate + \$184 indexation) CP Plan No. 26	\$3,291

[PCC0215]

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying

Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Certificate of Compliance" signed by an authorised officer of Council.

BELOW IS ADVICE ONLY

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

Water: 1.2828 ET @ \$13,926 = \$17,864.30

Sewer: 1.7996 ET @ \$6,690 = \$12,039.30

[PCC0265]

10. 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 and sewerage drainage works prior to the issue of a Construction Certificate. The sewer application to include work as constructed sanitary drainage plans and AS 3500 certification in respect of the new sanitary facilities/works to the first floor as indicated on Development Consent plans DA17/0128.

[PCC1195]

11. The existing two storey building (Imperial Hotel) is the subject of *Fire Engineering Report - 2017-394 dated 19 July 2017 by Dolphin Fire Engineering Consultants P/L* in respect of NCC-BCA upgrading to achieve a satisfactory level of fire safety as required by Development Consent DA17/0128. Prior to release of a construction certificate the aforementioned report is to be amended or an appropriately qualified fire engineer is to review this report in respect of the works the subject of this consent (additional Class 3 SOU's and the like) and submit an amended/new Fire Engineering Report to the nominated PCA for assessment and approval.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0005]

13. 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]
14. 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]
15. 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]
16. 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]
17. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0665]

DURING CONSTRUCTION

18. All proposed works are to be carried out in accordance with the conditions of development consent, any approved Management Plans, approved Construction Certificate, drawings and specifications.
- [DUR0005]
19. Commencement of work, including the switching on and operation of plant, machinery and vehicles is limited to the following hours, unless otherwise permitted by Council:
- Monday to Saturday from 7.00am to 6.00pm
- No work to be carried out on Sundays or Public Holidays
- The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

20. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.
L_{Aeq, 15 min} noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
 - B. Long term period - the duration.
L_{Aeq, 15 min} noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0215]

21. 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]

22. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- (a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
 - (b) The chute shall be located in a position approved by the Principal Certifying Authority.
 - (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.

[DUR0385]

23. 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]

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

[DUR0405]

25. 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]

26. If the work involved in the erection or demolition of a building:
- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
 - (b) building involves the enclosure of a public place,

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

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

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

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

[DUR0435]

27. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Work Health and Safety Regulation 2011.

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

[DUR0645]

28. 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]

29. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428. Your attention is directed to Table D3.1 of the BCA which prescribes the requirements for accessibility for people with a disability to and within class 3 sole occupancy units and common areas.

[DUR1685]

30. Where a building or part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428.

[DUR1695]

31. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia.

[DUR1705]

32. Pursuant to the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with the relevant provisions of AS1428- Design for Access and Mobility.

[DUR1725]

33. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

34. 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]

35. 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]

36. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.

[DUR2525]

37. 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]

38. 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]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

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

[POC0205]

41. 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]

42. A final occupation certificate must be applied for and obtained within 6 months of

any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein).

[POC0355]

43. 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]

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

[POC1055]

USE

45. 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]

46. 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]

- B. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

The Motion was **Carried**

FOR VOTE - Unanimous

9 [PR-PC] Planning Proposal PP17/0003 Protection of Airspace Surrounding Bob Whittle Murwillumbah Airfield - Public Exhibition Review

P 100

Cr K Milne
Cr P Allsop

RECOMMENDED that Planning Proposal PP17/0003, for the Bob Whittle Murwillumbah Airfield, being Tweed Local Environmental Plan 2014 Amendment No 15, be forwarded to NSW Department of Planning and Environment with a request that the Plan be made under s.3.36 of the *Environmental Planning and Assessment Act 1979*.

The Motion was **Carried**

FOR VOTE - Unanimous

11 [PR-PC] Draft Tweed Shire Council Animal Pound - Rehoming and Minimising Euthanasia Policy

P 101

**Cr K Milne
Cr R Byrnes**

RECOMMENDED that:

1. Council endorses the public exhibition of the attached Draft Tweed Shire Animal Impounding Facility (The Pound) Rehoming and Minimising Euthanasia Policy be placed on public exhibition for a period of 28 days, and accepts public submissions for a period of 42 days as per Section 160 of the Local Government Act 1993; and
2. A further report be brought back to Council following the public exhibition.

The Motion was **Carried**

FOR VOTE - Unanimous

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

P 102

**Cr K Milne
Cr C Cherry**

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

The Motion was **Carried**

FOR VOTE - Unanimous

LATE ITEMS

LATE ITEM

P 103

Cr K Milne
Cr P Allsop

RESOLVED that Item 13 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

FOR VOTE - Unanimous

- 13 LATE [PR-PC] Development Application DA18/0517 for a Pop Up Bar, Cafe, Food Van and Ancillary Facilities at Kingscliff Beach Bowls Club at Lot 468 DP 755701; No. 131 Marine Parade Kingscliff**

P 104

Cr P Allsop
Cr J Owen

RECOMMENDED that Development Application DA18/0517 for a pop up bar, café, food van and ancillary facilities at Kingscliff Beach Bowls Club at Lot 468 DP 755701; No. 131 Marine Parade Kingscliff be approved subject to the following conditions:

GENERAL

- The development shall be completed in accordance with the Statement of Environmental Effects and following plans, except where varied by the conditions of this consent.

Document/Plan Title	Drawn By	Plan/Job No	Drawing No	Dated
Site Plan/Roof Plan	Paynter Dixon Constructions Pty Ltd	KGF 1/2	A02 (Rev D)	01.03.18
Proposed Floor Plan	Paynter Dixon Construction Pty Ltd	KGF 1/2	A03 (Rev D)	01.03.18
Elevations	Paynter Dixon Construction Pty Ltd	KGF 1/2	A04 (Rev D)	01.03.18
Perspectives	Paynter Dixon Construction Pty Ltd	KGF 1/2	A05 (Rev D)	01.03.18
Perspectives	Paynter Dixon Construction Pty Ltd	KGF 1/2	A06 (Rev D)	01.03.18
Perspectives	Paynter Dixon Construction Pty Ltd	KGF 1/2	A07 (Rev D)	01.03.18
Finish Schedule - 20ft Container Bar	MAAKE Pty Ltd	J146440	2018-06-04 (Rev A)	-
Plan View - 20ft Container Bar	MAAKE Pty Ltd	J146440	2018-06-04 (Rev A)	-
Front Elevation - 20ft Container Bar	MAAKE Pty Ltd	J146440	2018-06-04 (Rev A)	-

[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 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]
4. The recommendations outlined in the submitted Cultural Heritage Assessment Report prepared by Everick Heritage Consultants dated February 2018 (Issue 4) are to be complied with at all times. [GENNS01]
5. The use of the pop up bar/cafe, outdoor entertainment area, patron seating area and food van is restricted for a period of five (5) years from the date of this development consent. [GENNS02]
6. The entertainment area shall be located as shown on Figure 2 of the revised Acoustic Report prepared by Acoustic Works dated 4 October 2018 and noted by Council on the stamped approved Site Plan/Roof Plan Reference KGF1/2 A02, Rev D, dated 1 March 2018. [GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

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

BELOW IS ADVICE ONLY

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

Water: Nil
Sewer: Nil

[PCC0265]

8. 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 and sewerage drainage works prior to the issue of a Construction Certificate. [PCC1195]
9. The Site Plan/Roof Plan drawn by Paynter Dixon Constructions Pty Ltd Referenced KGF 1/2 Drawing No A02 (Rev D) is to be updated to reflect the revised 'Entertainment Area' location as nominated in Figure 2 of the revised Acoustic Report prepared by Acoustic Works dated 4 October 2018. [PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

10. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal

Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

11. The erection of a building (pop up cafe bar & cafe) 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]

12. 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]

13. 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]

14. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that

these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0665]

DURING CONSTRUCTION

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

[DUR0005]

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

[DUR0015]

17. Commencement of work, including the switching on and operation of plant, machinery and vehicles is limited to the following hours, unless otherwise permitted by Council:

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

18. All 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]

19. 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]

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

[DUR0405]

21. 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]

22. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

23. 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]

24. 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]

25. 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]

26. 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]

27. 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]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

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

[POC0205]

30. The building (pop up cafe & bar) 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]

31. 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]

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

[POC1055]

USE

33. 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]

34. Hours of operation of the pop up bar and external entertainment are restricted to the following hours:

* 4pm to 8.30pm - Mondays to Sundays and Public Holidays

[USE0185]

35. The development shall be carried out in accordance with the provisions of the acoustic assessment report prepared by Acousticworks (reference: 2018026 R01C Kingscliff Beach Bowls Club Pop Up Bar ENV.doc) and dated 4 October 2018.

[USE0305]

36. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act* 2003, FSANZ Food Safety Standards and AS 4674-2004 Design, construction and Fit-out of Food Premises and other requirements of Councils Environmental health Officer included in this approval.

[USE0835]

37. Prior to the installation of the pop up cafe, plans drawn to a scale of 1:50 detailing the following with regards to all food related areas shall be provided to Council's Environmental Health Officers for assessment and approval:

- a. Floor plan and two (2) sectional elevations
- b. Layout of premises showing all equipment
- c. All internal finish details including floors, wall, ceiling and lighting
- e. Servery areas including counters etc

[USENS01]

38. In accordance with the submitted Noise Management Plan, a complaint management system is to be established for the development which includes the maintaining of log of any complaints received in regard to noise. The name and telephone number is to be nominated by the club and clearly displayed in a prominent area within the club premises.

[USENS02]

The Motion was **Carried**

FOR VOTE - Unanimous

There being no further business the Planning Committee Meeting terminated at 9.30pm.

