

**Mayor:** Cr K Milne

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

# Minutes

## **Planning Committee Meeting Thursday 3 May 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 5.38pm.

**IN ATTENDANCE**

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

Also present were Mr Troy Green (General Manager), Mr Paul Morgan (for Director Engineering), Mr Vince Connell (Director Planning and Regulation), Mr Stewart Brawley (Acting Director Community and Natural Resources), Mr Arthur Piggott (for Executive Manager Finance, Revenue and Information Technology), Mrs Suzanne Richmond (Executive Manager People, Communication and Governance), Mr Shane Davidson (Executive Officer), Mr Neil Baldwin (Manager Corporate Governance) and Ms Ann Mesic (Minutes Secretary).

**ABORIGINAL STATEMENT**

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

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

**PRAYER**

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

**APOLOGIES**

Nil.

**DISCLOSURE OF INTEREST**

Nil.

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

Nil.

**SCHEDULE OF OUTSTANDING RESOLUTIONS**

Nil.

**ORDERS OF THE DAY**

Nil.

**REPORTS THROUGH THE GENERAL MANAGER**

Nil.

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**REPORTS FROM THE DIRECTOR PLANNING AND REGULATION**

- 1 **[PR-PC] Development Application DA17/0921 for a Dwelling, Secondary Dwelling and Swimming Pool at Lot 244 DP 1033384 No. 1 Silveraspen Grove, Pottsville**

**P 15**

**Cr W Polglase  
Cr J Owen**

**RECOMMENDED** that Development Application DA17/0921 for a dwelling, secondary dwelling and swimming pool at Lot 244 DP 1033384 No. 1 Silveraspen Grove, Pottsville 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 as follows:

<b>Plan Number</b>	<b>Title</b>	<b>Date</b>
Unnumbered	Drawing List	Undated
MC-01	Level and Detail Survey	1.06.2017
A-002	Site Plan	18.02.2018
A-003	Site Set out Plan	18.02.2018
A-004	Site set out Plan Main Dwelling	18.02.2018
A-005	Site set out Plan	18.02.2018
A-100	Lower Floor Plan	18.02.2018
A-101	Mid Floor Plan	18.02.2018
A-102	Upper Floor Plan	18.02.2018
A-103	Roof Plan	18.02.2018
A-104	Lower Floor Plan	18.02.2018
A-105	Mid Floor Plan	18.02.2018
A-106	Upper Floor Plan	18.02.2018
A-107	Roof Plan	18.02.2018
A-108	Secondary Dwelling Plans	09.04.2018
A-201	Section - 03 & 04 Main Dwelling	18.02.2018
A-202	Section - 05 & 06 Main Dwelling	18.02.2018
A-203	Section - 01 & 02 Main Dwelling	18.02.2018
A-204	Driveway Section - Main House	18.02.2018
A-205	Driveway Section - Secondary Dwelling	18.02.2018
A-300	Eastern Elevation	18.02.2018
A-301	Northern Elevation	18.02.2018
A-302	Western Elevation	18.02.2018
A-303	Southern Elevation	18.02.2018
A-304	Secondary Dwelling Elevations	18.02.2018

Plan Number	Title	Date
A-305	Secondary Dwelling Elevations	18.02.2018
A-306	Secondary Dwelling Elevations	18.02.2018
A-307	Secondary Dwelling Elevations	18.02.2018

prepared by Studio 153, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0015]

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

[GEN0115]

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.

[GEN0135]

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

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

[GEN0155]

6. 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]

7. Bushfire Design and Construction

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

- (a) Construction shall comply with Australian Standard AS3959-2009 'Construction of buildings in Bush Fire-prone areas', Bushfire attack Level (BAL) 12.5 for the dwelling and secondary dwelling.

[GEN0335]

8. Where removal of native vegetation located on-site cannot be suitably avoided or minimised, native vegetation removal shall be limited to the removal of the "Clump of Casuarina Trees" as generally shown on Level and Detail Survey (Dwg No. MC-01) dated 1 June 2017.

[GENNS01]

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

9. A detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate. [PCC0585]
10. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate. [PCC0945]
11. For developments containing less than four attached or detached strata dwellings having a Building Code classification of 1a, each premises must be connected by means of a separate water service pipe, each of which is connected to an individual Council water meter to allow individual metering. Application for the meters shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements. [PCC1175]
12. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to the issue of a Construction Certificate. [PCC1195]

## **PRIOR TO COMMENCEMENT OF WORK**

13. 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]
14. 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]

15. 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]

16. 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]

17. 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]

18. 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]

19. 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]

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

[PCW1005]

## DURING CONSTRUCTION

21. All proposed works are to be carried out in accordance with the conditions of development consent, approved management plans, approved construction certificate, drawings and specifications. [DUR0005]
22. 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]
23. 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]
24. 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]
25. 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]
26. 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]
27. 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]
28. 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]

29. The finished floor level of the building should finish not less than 225mm above finished ground level.

[DUR0445]

30. 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]

31. 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]

32. 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]

33. Swimming Pools (Building)

- (a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 - 2012 & AS 1926.3 -2010 & AS 1926.2-2007, the Swimming Pool Act 1992 and the Swimming Pool Regulation 2008.
- (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.
- (e) Once your pool or spa is complete please register it at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au).

[DUR2075]

34. Backwash from the swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.

[DUR2085]

35. The spa filter and any pumps or aerators are to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties. [DUR2135]
36. 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]
37. 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]
38. 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]
39. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR2505]
40. 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]
41. 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]
42. Landscaping of the site shall be carried out in general accordance with the approved plan. [DURNS01]
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## PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

43. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans. [POC0005]
44. 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]
45. 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]
46. Prior to the issue of an occupation certificate,
- (a) Certification of termite protection methods performed by the person carrying out the works is to be submitted to the PCA; and
  - (b) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:
    - (i) the method of protection; and
    - (ii) the date of installation of the system; and
    - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
    - (iv) the need to maintain and inspect the system on a regular basis. [POC0235]
47. Prior to the issue of an occupation certificate for the use of the swimming pool, the owner is to contact the local Rural Fire Services to arrange and install a static water supply identification plate. [POC0315]
48. 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]
49. 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]
50. 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]

51. Upon completion of the pool the builder is to submit to the Principal Certifying Authority a certificate stating that the "Water Recirculation System" has been installed in accordance with AS 1926.3-2010. [POC0905]
52. 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]
53. Prior to the issue of a final occupation certificate, all conditions of consent are to be met. [POC1055]
54. The swimming pool or spa is required to be registered at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au) prior to the issue of any occupation certificate for the swimming pool or spa. [POC1100]

## USE

55. 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]
56. The keeping of dogs, cats or other animals on the property is to be in accordance with any relevant 88B Instrument requirements. [USE1245]
57. Subdivision of the development, including strata subdivision, is not permitted. [USE1255]
58. The subfloor of the secondary dwelling shall not be used for habitable purposes. [USENS01]
59. The swimming pool must contain a stout rope (minimum 50mm diameter) and one end of the rope must be secured to a stable poolside fixture and the other end must trail in the pool at all times. [USENS02]

## AMENDMENT 1

### P 16

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

**PROPOSED** that this report be deferred to the Council meeting of 17 May 2018.

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**

The Motion was **Carried** (Minute No P 15 refers)

**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**

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**2 [PR-PC] Development Application DA16/0852 for a Dwelling House and Secondary Dwelling at Lot 2 DP 1201210 No. 5 North Hill Court, Tanglewood**

**P 17**

**Cr W Polglase**  
**Cr P Allsop**

**RECOMMENDED** that:

- A. Council issue two Penalty Infringement Notices to the land owner for:
1. Non-compliance with Condition 40 of DA15/0199 which stipulated that the building was not to be used for any habitable, commercial or industrial purpose without prior approval of the Council; and
  2. Undertaking building works (installation of a kitchen, and construction of a shed) without approval
- B. Council advise the applicant that further compliance action may be undertaken in association with the proposed secondary dwelling (the boatport and approved storage area under DA15/0199 are not to be used for habitable purposes and are to be reinstated as a boatport and outdoor living area as endorsed by this consent) after 120 days of the issuing of this consent.
- C. Development Application DA16/0852 for a dwelling house and secondary dwelling at Lot 2 DP 1201210 No. 5 North Hill Court, Tanglewood be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and all the supplementary material provided by the applicant throughout the assessment of the application.  
The roof and walls of both structures are to result in finishes that are non reflective to avoid glare to adjoining properties.

The development shall be completed in accordance with the following plans prepared by Bischoff Building Design and dated 4 December 2017, as amended in red:

- Site plan Drawing No. DA.2.02 Revision A;
- Carport floor plan Drawing No. DA.3.01;
- Floor plan Drawing No. DA.3.01;



- Carport floor plan Drawing No. DA.3.02 Revision A;
- Roof plan Drawing No. DA.3.03 Revision A;
- Elevations Drawing No. DA.4.01 Revision A;
- Elevations Drawing No. DA.4.02 Revision A;
- Sections Drawing No. DA.5.01 Revision A;
- Sections Drawing No. DA.5.02 Revision A;
- Sections Drawing No. DA.5.03;
- Granny flat floor plan Drawing No. DA.8.01 Revision A;
- Granny flat roof plan Drawing No. DA.8.02 Revision A;
- Sections Drawing No. DA.8.04 Revision A;
- Elevations Drawing No. DA.8.03 Revision A;
- Tool shed plans Drawing No. DA.9.01;

except where varied by the conditions of this consent.

[GEN0005]

2. Within 120 days of issuing this consent the applicant is to lodge a Building Certificate for the conversion of the approved Class 10a Building (Art Studio) to a Class 1a Building (Secondary Dwelling). This needs to include the unauthorised installation of the mezzanine and kitchen.
3. Within 120 days of issuing this consent the applicant is to lodge a Construction Certificate demonstrating compliance with the following provisions:
  - The total floor area of the secondary dwelling (excluding the boat port, carport and external decks) is not to exceed 60m<sup>2</sup>. The current plans show a floor area of 61.82m<sup>2</sup> as a pantry has been installed and therefore the structure needs to be amended to ensure a size of 60m<sup>2</sup> is achieved.
  - The approved storage area (under DA15/0199) has been converted to a bedroom without approval and must be reverted back to an outdoor living areas as shown on the approved plans for DA16/0852
  - The existing window in the existing unauthorised shed is to be removed and replaced with a solid wall as the existing and proposed shed is not to have any windows on the northern elevations.
  - Partially remove the wall of the southern elevation of the approved carport so that the southern elevation of the carport is substantially open (approximately 50% open).
4. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
5. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0005]

[GEN0115]

[GEN0300]

6. Bushfire Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

- (a) At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

[GEN0320]

7. Bushfire Water and Utilities

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

- (a) Electricity and/or gas services are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

[GEN0325]

8. Bushfire Design and Construction

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

- (a) The proposed dwelling and carport shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
- (b) The existing studio/secondary dwelling is to be upgraded to improve ember protection. This is to be achieved by enclosing all openings or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, external doors, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

[GEN0335]

9. Bushfire Landscaping

- (a) Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

[GEN0340]

10. This consent does not approve any tree removal. Any proposed future tree removal requires an application to be submitted to Council for approval where statutorily required.

[GENNS01]

## PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

11. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided. [PCC0285]
12. A detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate. [PCC0585]
13. 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]
14. 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]

## PRIOR TO COMMENCEMENT OF WORK

15. The erection of a building (in this case the principal dwelling house, alterations and additions to secondary dwelling as required by Condition 3 and the extension of the tool shed ) 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 license 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]

16. 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]

17. 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]

18. 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]

19. 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]

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

[PCW0955]

21. 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]

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

[PCW1005]

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

[PCW1065]

24. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of a new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCW1170]

## **DURING CONSTRUCTION**

25. All proposed works are to be carried out in accordance with the conditions of development consent, approved management plans, approved construction certificate, drawings and specifications.

[DUR0005]

26. If during construction works and Aboriginal object or relic is disturbed or uncovered, works are to cease and the Department of Environment and Heritage are to be notified immediately, in accordance with the provisions of the National Parks and Wildlife Act 1974.

[DUR0025]

27. 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]

28. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of buildings with direct line of sight to the proposed building.

[DUR0245]

29. 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]

30. 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]

31. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979. [DUR0405]
32. 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]
33. The finished floor level of the building should finish not less than 225mm above finished ground level. [DUR0445]
34. Any cut or fill on the property is to be battered at a ratio not greater than 1:2 (v:h) within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan Part A1 to the satisfaction of the Principal Certifying Authority.
- Please note timber retaining walls are not permitted. [DUR0835]
35. 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]
36. All works shall be carried out in accordance with Councils Acid Sulfate Soils Management Plan for Minor Works. A signed copy of this Management Plan shall be submitted to Council prior to the commencement of works. [DUR1075]
37. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation/Subdivision Certificate. [DUR1955]
38. 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]
39. 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]

40. 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]

41. 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]

42. 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]

43. 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]

44. 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 are to be notified (on 07 5536 1763). The find is to be reported to the Office of Environment and Heritage. No works 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.

[DURNS01]



## PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

45. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units). [POC0205]
46. Prior to the issue of an occupation certificate,
- (a) Certification of termite protection methods performed by the person carrying out the works is to be submitted to the PCA; and
  - (b) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
    - (i) the method of protection; and
    - (ii) the date of installation of the system; and
    - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
    - (iv) the need to maintain and inspect the system on a regular basis. [POC0235]
47. 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]
48. 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]
49. Prior to the occupation of any building and prior to the issue of any occupation certificate a final inspection report is to be obtained from Council to verify the satisfactory installation of all plumbing and drainage and the on-site sewage management facility. [POC1035]
50. Prior to the occupation of any building and prior to the issue of any occupation certificate approval to operate the on-site sewage management facility under Section 68 of the Local Government Act 1993 shall be obtained from Council. [POC1040]
51. Prior to the issue of a final occupation certificate, all conditions of consent are to be met. [POC1055]
52. Prior to the issue of an occupation certificate building certificate is to be obtained in respect of the mezzanine, kitchen and works associated with the conversion of the outbuilding to a secondary dwelling. [POCNS01]

53. Prior to the issue of an occupation certificate a smoke detector is to be installed in the secondary dwelling in accordance with the requirements of Part 3.7.2 Smoke Alarms of the NCC-Building Code of Australia. A certificate from a licensed electrician certifying that the new smoke alarms in accordance with AS 3786 and have been connected to the consumer mains power is to be submitted to the PCA.

[POCNS02]

54. Completion and certification of bushfire upgrading works as specified in the Bushfire Report prepared by Bushfire Risk Pty Ltd - April 2017.

[POCNS03]

## USE

55. 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]

56. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.

[USE0175]

57. 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]

58. The external living areas of the secondary dwelling are not to be adapted or enclosed for habitable use.

[USE0465]

59. The shed is not to be adapted or used for habitable purposes.

[USE0475]

60. The car port and boat port of the secondary dwelling must not be adapted or used for human habitation or occupation.

[USE0475]

61. The primary dwelling is to be used for single dwelling purposes only and not be adapted so as to be used as two domiciles.

[USE0505]

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

[USE1255]

The Motion was **Carried**

**FOR VOTE - Unanimous**

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- 3 [PR-PC] Development Application DA18/0064 for a Change of Use to Hair Salon and Associated Fit Out on the Mezzanine Level of Existing Vehicle Repair Station at Lot 20 Section 2 DP 2974 No. 22-24 Prospero Street, South Murwillumbah; Lot 19 Section 2 DP 2974 No. 26-28 Prospero Street, South Murwillumbah**

**P 18**

**Cr R Byrnes  
Cr C Cherry**

**RECOMMENDED** that Development Application DA18/0064 for a change of use to hair salon and associated fit out on the mezzanine level of existing vehicle repair station at Lot 20 Section 2 DP 2974 No. 22-24 Prospero Street, South Murwillumbah; Lot 19 Section 2 DP 2974 No. 26-28 Prospero Street, South 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 for Hair Salon prepared by the applicant and dated 30 January 2018, 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. A Building Certificate Application is to be lodged within 90 days of the date of this Consent with respect to the mezzanine located on Lot 20 Sec 2 DP 2974 No. 22 Prospero Street South Murwillumbah. The Building Certificate Application is to include a structural engineers certificate of structural adequacy and details of the upgrading required to the stairs and associated handrails/balustrading to satisfy the requirements of Part D of NCC -2016. [GENNS01]
4. Any proposed signage is to be the subject of an application to Council where statutorily required. [GENNS02]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

5. Section 7.11 Contributions

Payment of the following contributions pursuant to Section 7.11 of the Act and the relevant Section 7.11 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 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

- (a) Tweed Road Contribution Plan:  
1.4 Trips @ \$1415 per Trips \$1,188.60  
(\$1,317 base rate + \$98 indexation)  
(\$792.40 has been subtracted from this total as this development is deemed an 'Employment Generating Development')  
S94 Plan No. 4  
Sector9\_4
- (b) Extensions to Council Administration Offices  
& Technical Support Facilities \$8.52  
0.0044 ET @ \$1935.62 per ET  
(\$1,759.90 base rate + \$175.72 indexation)  
S94 Plan No. 18

[PCC0215]

6. 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 = 0.2161 ET @ \$13,632 = \$2,945.90

Sewer = 0.5161 ET @ \$6,549 = \$3,379.95

[PCC0265]

7. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water and sewerage works prior to the issue of a Construction Certificate. This application is to include works as executed drainage plans and certification of all works to AS 3500 in respect of all unauthorized plumbing and sanitary drainage.

[PCC1195]

8. To ensure that the building (22-24 Prospero Street South Murwillumbah) is provided with a satisfactory level of fire safety/NCC compliance the following works are required:
- i. Egress from the building is to be upgraded in accordance with the requirements of Part D of the NCC-BCA. In particular an additional exit door is to be provided to the northern elevation;
  - ii. Door/s in a required exit, forming part of, or in the path of travel to a required exit shall be readily openable without a key from the side that faces a person seeking egress by a single hand action on a single device which is located between 900mm and 1.2m from the floor. NCC-BCA Clause D2.2;
  - iii. A fire hose reel system must be provided throughout the building in accordance with AS 2441. The fire hose reels are to be located within 4 m of an exit and so that the nozzle end of a fully extended fire hose fitted to the reel and laid to avoid any partitions or other physical barriers will reach every part of the building. NCC-BCA Clause E1.4, Australian Standard 2441;
  - iv. Portable fire extinguishers containing an extinguishing agent suitable for the risk shall be provided throughout the building to the requirements of AS 2444 - 2001;
  - v. Emergency lighting is to be provided throughout the building in accordance with Part E4 of the NCC- BCA;
  - vi. Exit signs are to be provided in appropriate positions indicating the direction to a required exit to ensure that persons occupying or visiting the units are able to locate the paths of travel to the exits in accordance with Clause E4.6 of the NCC-Building Code of Australia;
  - vii. The stairs and associated handrails/balustrading to the mezzanine are to be upgraded in accordance with Part D of the NCC - BCA and AS 1428.1 - 2009.

Prior to the release of the Construction Certificate, details demonstrating compliance with the above mentioned requirements are to be submitted to and approved by the nominated PCA.

Further to the above fire upgrading, the option is available to submit a fire engineering report containing an alternative solution addressing the Performance Requirements contained in Volume 1 of the Building Code of Australia relating to the non-compliance issues arising from the above BCA assessment. This report is to be submitted to the nominated PCA for assessment and determination prior to issue of the Construction Certificate.

[PCCNS01]

## **PRIOR TO COMMENCEMENT OF WORK**

9. 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]

10. 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]

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

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

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

[PCW0255]

## **DURING CONSTRUCTION**

12. All proposed works are to be carried out in accordance with the conditions of development consent, approved management plans, approved construction certificate, drawings and specifications.

[DUR0005]

13. 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]

14. 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]

15. 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]

16. 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]

17. 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]

18. 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]

19. 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]

20. 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]

21. Fire hose reels shall be installed in accordance with the provisions of Part E1.4 of the Building Code of Australia and comply with Australian Standard AS1221 and AS2441.

However, they shall not be installed until the PCA has been furnished with a certificate, signed by a Hydraulics Engineer stating that the design and proposed manner of installation complies with the relevant standards.

[DUR1255]

22. Exits are to be provided so that no point on the floor of the building shall be more than 20 metres from:

- (a) an exit; or
- (b) a point from which travel in different directions to two exits is available in which case the maximum distance to one of those exits shall not exceed 40 metres.

[DUR1285]

23. Exit signs which comply with Part E4.5 of the Building Code of Australia and are designed in accordance with Part E4.8 of the Building Code of Australia and are to be installed. Mounting heights shall be in accordance with AS2293.1.

[DUR1295]

24. Emergency lighting to comply with Part E4.2 of the Building Code of Australia shall be provided. Details of the system to be used and a certificate from the electrical engineer to certify that the system will comply with all relevant requirements of Part E4.4 of the Building Code of Australia and AS 2293.1 are to be submitted to the PCA prior to installation.

[DUR1305]

25. Doors forming exits, paths of travel to exits and parts of exits shall comply with the relevant provisions of D2.19 and D2.20 and D2.21 (door latch to operate by single handed, downward action on egress) of the Building Code of Australia.

[DUR1315]

26. 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]

27. 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]

28. 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]



29. 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]
30. 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]
31. 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**

32. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans. [POC0005]
33. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 6.9 and 6.10 unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units). [POC0205]
34. 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]
35. 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]
36. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works. [POC1045]
37. Prior to the issue of a final occupation certificate, all conditions of consent are to be met. [POC1055]

38. An Occupation Certificate shall not be issued until a Building Certificate is obtained for the mezzanine level located on Lot 20 Sec 2 DP 2974 No. 22 Prospero Street South Murwillumbah.

[POCNS01]

## USE

39. Any person carrying out skin penetration on the premises shall cause a copy of the NSW Health Guidelines on Skin Penetration and also a copy of the NSW Health, Skin Penetration Code of Best Practice to be kept on the premises.

[USE0955]

40. The carrying out of any skin penetration procedure as defined in Section 5 of the Public Health Act 2010 is prohibited without the prior approval of Council's Environmental Health Officer.

[USE0960]

41. Skin penetration activities at the premises shall be conducted in accordance with the Public Health Act 2010 and Part 4 of the Public Health Regulation 2012.

[USE0975]

The Motion was **Carried**

**FOR VOTE - Unanimous**

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- 4 [PR-PC] Development Application DA17/0854 for a Change of Use from Dwelling and Secondary Dwelling to Detached Dual Occupancy and Two Lot Strata Subdivision at Lot 57 DP 263729 No. 23 Royal Drive, Pottsville**

**P 19**

**Cr W Polglase  
Cr P Allsop**

**RECOMMENDED** that Development Application DA17/0854 for a change of use from dwelling and secondary dwelling to detached dual occupancy and two lot strata subdivision at Lot 57 DP 263729 No. 23 Royal Drive, Pottsville be approved subject to the following conditions:

## GENERAL

1. The development shall be completed in accordance with the Plan of Strata Subdivision prepared by B & P Surveys Consulting Surveyors referenced T16436/22217D dated 25/09/2017, except where varied by the conditions of this consent.
2. 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.

[GEN0005]

[GEN0135]

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

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

[GEN0155]

4. The approved development shall not result in any clearing of native vegetation without prior approval from the relevant authority.

[GEN0290]

5. A minimum 3.0 metre easement shall be created over the existing sewer on the lot.

6. Both proposed strata lots shall connect to the existing sewer junction located in the South East corner of Lot 57 DP 263729.

7. 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.

8. Water and sewerage retic for the proposed building shall be connected to the existing internal water and sewerage of the lot, ensuring the lot only has one connection to Council's public water and sewer infrastructure.

[GENNS01]

9. A minimum of two car parking spaces are to be provided for the dwelling on proposed Lot 2.

[GENNS02]

## **DURING CONSTRUCTION**

10. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Council's Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

11. The Applicant shall submit the appropriate 'Application for Water Service Connection' to Council's Water Unit to facilitate a property service water connection for proposed Lot 2 on existing Lot 57 DP 263729, from the existing water main in Royal Drive. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.

[DUR2800]

**PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE**

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

A Subdivision Certificate shall NOT be issued unless the Certifying Authority is satisfied provisions have been complied with and the Certifying Authority has sighted Council's Certificate of Compliance signed by an authorised officer of Council.

**BELOW IS ADVICE ONLY**

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

Water: 1.0 ET @ \$13,632 = \$13,632  
Sewer: 1.0 ET @ \$6,549 = \$6,549

[PSC0165]

13. Section 94 Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "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 S94 Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

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

- |   |         |
|---|---------|
| (a) Tweed Road Contribution Plan:<br>1.3 Trips @ \$1380 per Trips<br>(\$1,284 base rate + \$96 indexation)<br>S94 Plan No. 4<br>Sector8_4 | \$1,794 |
| (b) Open Space (Casual):<br>0.75 ET @ \$564 per ET<br>(\$502 base rate + \$62 indexation)<br>S94 Plan No. 5                               | \$423   |

(c)	Open Space (Structured): 0.75 ET @ \$645 per ET (\$575 base rate + \$70 indexation) S94 Plan No. 5	\$484
(d)	Shirewide Library Facilities: 0.75 ET @ \$869 per ET (\$792 base rate + \$77 indexation) S94 Plan No. 11	\$652
(e)	Eviron Cemetery: 0.75 ET @ \$127 per ET (\$101 base rate + \$26 indexation) S94 Plan No. 13	\$95
(f)	Community Facilities (Tweed Coast - North) 0.75 ET @ \$1457 per ET (\$1,305.60 base rate + \$151.40 indexation) S94 Plan No. 15	\$1,093
(g)	Extensions to Council Administration Offices & Technical Support Facilities 0.75 ET @ \$1935.62 per ET (\$1,759.90 base rate + \$175.72 indexation) S94 Plan No. 18	\$1,451.72
(h)	Cycleways: 0.75 ET @ \$490 per ET (\$447 base rate + \$43 indexation) S94 Plan No. 22	\$368
(i)	Regional Open Space (Casual) 0.75 ET @ \$1132 per ET (\$1,031 base rate + \$101 indexation) S94 Plan No. 26	\$849
(j)	Regional Open Space (Structured): 0.75 ET @ \$3974 per ET (\$3,619 base rate + \$355 indexation) S94 Plan No. 26	\$2,981

[PSC0175]

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

- (a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such

restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0835]

15. For developments containing less than four attached or detached strata dwellings having a Building Code classification of 1a, each premises must be connected by means of a separate water service pipe, each of which is connected to an individual Council water meter to allow individual metering. Application for the meters shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.
16. 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.

[PSCNS01]

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

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

1. The development proposal is to comply with the subdivision layout identified on the drawing prepared by B & P Surveys as submitted in Appendix B of the 'Bushfire Threat Assessment Report' prepared by Bushfire Certifiers dated 24th January, 2018.

### Asset Protection Zones

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

2. At the issue of subdivision certificate and in perpetuity the entire property of proposed Lot 1 shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

### Landscaping

3. Landscaping on proposed Lot 1 is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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- 5 [PR-PC] Development Application DA04/0162.03 for an Amendment to Development Consent DA04/0162 for Expansion and Amalgamation of Existing Quarries at Lot 28 DP 1079480 Pollards Road, Dulguigan**

**ALTERNATE MOTION**

**P 20**

**Cr K Milne  
Cr C Cherry**

**RECOMMENDED** that this report be deferred to allow the community further opportunity to respond to this report.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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- 6 [PR-PC] Compliance - Development Application DA02/1983.17 for an Amendment to Development Consent DA02/1983 for the Use of Property for Filming and Producing a Television Program at Lot 77 DP 755715 Dungay Creek Road, Dungay; Part Lot 74 DP 755715 No. 366 Dungay Creek Road, Dungay; Lot 93 DP 755715 No. 486 Dungay Creek Road, Dungay**

**ALTERNATE MOTION**

**P 21**

**Cr C Cherry  
Cr W Polglase**

**RECOMMENDED** that this item be deferred for a workshop with the Granada Production Company as requested.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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

**ALTERNATE MOTION**

**P 22**

**Cr C Cherry**

**Cr K Milne**

**RECOMMENDED** that:

1. Council receives and notes this report on current complaints received in respect of alleged unauthorised Short Term Holiday Let (STHL) uses;
2. Council's solicitors be engaged to instruct Council officers on the appropriate enforcement actions to cease the current unauthorised STHL uses in respect of the complaint items listed in this report, ILL18/0142 and ILL18/0365, due to proven operation of STHL use and substantiated ongoing residential amenity issues; and
3. A further report be submitted to Council as to whether a STHL use is confirmed for complaint item ILL18/0385, and whether any further complaints have been received in respect of complaint item ILL18/0346.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**8 [PR-PC] Rural Land Strategy for Adoption**

**ALTERNATE MOTION**

**P 23**

**Cr P Allsop**

**Cr C Cherry**

**RECOMMENDED** that this report be deferred for a workshop with the Tweed Combined Rural Industries Association.

Cr R Cooper temporarily left the meeting at 06:46 PM.

Cr R Cooper has returned from temporary absence at 06:47 PM

The Motion was **Carried**

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

***AGAINST VOTE - Cr R Cooper***

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

**P 24**

**Cr C Cherry**

**Cr K Milne**

**RECOMMENDED** that Council notes the April 2018 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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There being no further business the Planning Committee Meeting terminated at 6.49pm.

