



TWEED
SHIRE COUNCIL

Mayor: Cr K Milne

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

Minutes

Planning Committee Meeting Thursday 7 December 2017

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 79C

79C Evaluation

(1) Matters for consideration-general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
- (iii) any development control plan, and
- (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),

that apply to the land to which the development application relates,

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

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

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

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

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

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

and the discretion of the consent authority under this section and section 80 is limited accordingly.

- (3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:
 - (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 80 is not limited as referred to in that subsection, and
 - (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

Note: The application of non-discretionary development standards to complying development is dealt with in section 85A (3) and (4).

- (4) Consent where an accreditation is in force A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.
- (5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).
- (6) Definitions In this section:
 - (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and
 - (b) "non-discretionary development standards" means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

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The Meeting commenced at 5.39pm.

IN ATTENDANCE

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

Also present were Mr Troy Green (General Manager), Mr Michael Chorlton (for the Director Corporate Services), Mr David Oxenham (Director Engineering), Mr Iain Lonsdale (Acting Director Planning and Regulation), Ms Tracey Stinson (Director Community and Natural Resources), Mr Shane Davidson (Executive Officer), Mr Neil Baldwin (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 the following Prayer read by Pastor Chris Lindsay:

"Gracious God,

We thank you for providing the breathe of life each day. You uphold a rich diversity of life. You give us the power to work, leisure to rest, and the capacity to love and be loved by others.

Help those appointed to represent us in this chamber to govern with compassion and justice.

Protect our councillors from the temptation to seek wrongful gain. Grant them insight into the needs of our community.

Give all who work for this council the skill to serve our community efficiently and effectively. Help decision-makers weigh up diverse interests and govern for the wider benefit of our community and natural environment.

And help us as a community; to respect, honour and encourage those who undertake civic service on our behalf.

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

APOLOGIES

Nil.

DISCLOSURE OF INTEREST

Cr K Milne declared a Non-Significant, Non-Pecuniary Interest in Item 11 [PR-PC] Council Submission on the Independent Pricing and Regulatory Tribunal (IPART) Application for a Network Operators and Retail Suppliers Licence for the Kings Forest Waste Water Treatment Plant and Reticulation Network at 86 Melaleuca Road Kings Forest. The nature of the interest is that Cr K Milne has previous legal matters in regard to defamation with the Chairman of Leda Holdings, the developer of the Kings Forest development. Cr K Milne will manage the Interest by staying in the Chair and assessing the matter on merit alone.

Cr C Cherry declared a Non-Significant, Non-Pecuniary Interest in Item 6 [PR-PC] Development Application DA17/0383 for the Demolition of Existing Dwelling and Construction of a Caravan Park in 5 Stages - Stage 1 - 15 Short Term and 54 Long Term Sites, Community Centre, Swimming Pool, Amenities, Men's Shed, Managers Dwelling and On Site Detention Ponds; Stage 2 – 32 Long Term Sites; Stage 3 – 28 Long Term Sites; Stage 4 – 32 Long Term Sites; Stage 5 – 26 Long Term Sites at Lot 2 DP 803636 No. 355 Tomewin Road, Dungay. The nature of the interest is that Cr Cherry's family has an interest in a caravan park. Cr C Cherry will manage the Interest by staying in the chamber and assessing the matter on merit alone.

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.

SUSPENSION OF STANDING ORDERS

P 130

Cr K Milne

Cr J Owen

RESOLVED that Standing Orders be suspended to deal with Items 6 and 9 of the Agenda.

The Motion was **Carried**

FOR VOTE - Unanimous

- 6 [PR-PC] Development Application DA17/0383 for the Demolition of Existing Dwelling and Construction of a Caravan Park in 5 Stages - Stage 1 - 15 Short Term and 54 Long Term Sites, Community Centre, Swimming Pool, Amenities, Men's Shed, Managers Dwelling and On Site Detention Ponds; Stage 2 – 32 Long Term Sites; Stage 3 – 28 Long Term Sites; Stage 4 – 32 Long Term Sites; Stage 5 – 26 Long Term Sites at Lot 2 DP 803636 No. 355 Tomewin Road, Dungay**

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Cr C Cherry
Cr W Polglase

RECOMMENDED that:

1. ATTACHMENTS 2 & 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.
2. Development Application DA17/0383 for the demolition of existing dwelling and construction of a caravan park in 5 stages - Stage 1 – 15 short term and 54 long term sites, community centre, swimming pool, amenities, men's shed, managers dwelling and on site detention ponds; Stage 2 – 32 long term sites; Stage 3 – 28 long term sites; Stage 4 – 32 long term sites; Stage 5 – 26 long term sites at Lot 2 DP 803636 No. 355 Tomewin Road, Dungay be refused for the following reasons:
 1. Water Management Act 2000
Water NSW has reviewed the development in accordance with the provisions of Section 91A of the Environmental Planning & Assessment Act 179 and refuse to issue a Water Supply work approval under the Water Management Act 2000.
 2. Section 79(C)(1)(a)(i) The provision of any environmental planning instrument
 - 2.1 SEPP 21 – Caravan Parks
 - (i) The application fails to satisfy the aims and objectives outlined in Clause 3 of SEPP 21 – Caravan Parks.
 - (ii) The application fails to satisfy the matters to be considered by Council outlined in Clause 10 of SEPP 21 – Caravan Parks.

2.2 SEPP (Rural Lands) 2008

- (i) The application fails to satisfy the principles contained under Clause 7 of SEPP (Rural Lands) 2008
- (ii) The application fails to satisfy the principles contained under Clause 8 of SEPP (Rural Lands) 2008
- (iii) The application fails to satisfy the principles contained under Clause 9 of SEPP (Rural Lands) 2008
- (iv) The application fails to satisfy the principles contained under Clause 10 of SEPP (Rural Lands) 2008

2.3 Tweed Local Environmental Plan (LEP) 2014

- (i) The application fails to satisfy the objectives of the plan outlined in Clause 1.2 of Tweed LEP 2014.
- (ii) The application fails to satisfy the objectives of the RU2 zone under Clause 2.3 of Tweed LEP 2014. Particularly in regard to:
 - To maintain the rural landscape character of the land and;
 - To provide for a range of compatible land uses, including extensive agriculture.
- (iii) The application fails to satisfy the following Clauses under Part 7 (Additional Local Provisions) of Tweed LEP 2014:
 - Clause 7.1 Acid Sulfate Soils;
 - Clause 7.3 Flood Planning;
 - Clause 7.4 Flood Plain Risk Management;
 - Clause 7.6 Stormwater Management and;
 - Clause 7.10 Essential Services

3. Section 79(C)(1)(a)(iii) The provision of any development control plan

3.1 Tweed Development Control Plan (DCP) 2008

- (i) The application fails to satisfy the following section of Tweed DCP 2008:
 - Section A2 - Site Access and Parking Code
 - Section A3 - Development of Flood Liable Land
 - Section A13 - Socio Economic Impact Assessment

4. Section 79(C)(1)(a)(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social economic impacts on the locality.

- (i) The development is likely to have adverse impact on existing natural environment in regard to preservation and protection of ecologically endangered communities, impact to the existing waterway as a result of works over the waterway, insufficient information to demonstrate appropriate stormwater management measures and impacts resulting from bore water supply;

- (ii) The development is likely to have adverse impact on the existing built environment as a result of the proposed density of development occurring on the land in an area which comprises of vast rural landscapes and a character which is inconsistent with the proposed development as well as the impact on existing residences as a result of the increase in population;
- (iii) The development is likely to have adverse impact on the existing community as a result of a sudden increase in population in an area which is otherwise vastly populated and the demand the development will put on local infrastructure and services.
- (iv) The development is likely to have adverse impact on existing agricultural land uses due to the potential conflicts between the proposed residential development occurring in a rural zone which forms part of an area which is considered to be Farmland of Regional Significance.

5. Section 79(C)(1)(c) Site Suitability

An isolated rural lot with little access to public transport and services, forms a flood island during storm events and cannot be accessed by car or foot in emergencies, containing 172 manufactured homes, 15 caravan sites with a potential population of 350 – 400 people is not a suitable location for the development.

6. Section 79(C)(1)(d) Any submission made in accordance with this Act

Consideration of the submissions made in accordance with this Act from both public authorities and local residents indicate that the proposed development is not worthy of support. In particular, the provision of water supply is not satisfactory and NSW Office of Water refuse to grant approval to the development under the Water Management Act 2000.

7. Section 79(C)(1)(e) The public interest

The proposed development was exhibited for a period of 30 days in which members of the public raised several concerns over the development proposal and the social, environmental, economic and built environmental impacts. Based on the other listed reasons for refusal and having regard to the extent of concern raised by the public, it is considered that the proposed development is not in the public interest.

The Motion was **Carried**

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

AGAINST VOTE - Cr P Allsop

9 [PR-PC] Planning Proposal to Prohibit Water Extraction and Bottling

P 132

**Cr K Milne
Cr C Cherry**

RECOMMENDED that:

1. Council receives and notes a summary of the number and location of sites which currently have a lawful water extraction and/or bottling facility or a current development application for such land use;
2. Council seeks legal advice in regard to its' potential liability for any economic loss should a savings clause not be included with the LEP amendment that prohibits water extraction and bottling;
3. A priority Councillor workshop be held once legal advice has been received.
4. The planning proposal prohibiting water extraction and bottling on rural land be submitted to the NSW Department of Planning and Environment for a Gateway Determination in accordance with s56 of the Environmental Planning and Assessment Act 1979;
5. The Minister for Planning and Environment or his Delegate be advised that Tweed Council is not seeking plan making delegations for this planning proposal, and
6. Should the NSW Department of Planning and Environment support the planning proposal, it will be publicly exhibited in accordance with the Gateway Determination and a further report is to be submitted to Council detailing the content of submissions received and any proposed amendment(s).

The Motion was **Carried**

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

AMENDMENT 1

P 133

Cr J Owen
Cr W Polglase

PROPOSED that:

1. Council seeks legal advice in regard to its' potential liability for any economic loss should a savings clause not be included with the LEP amendment that prohibits water extraction and bottling;
2. A Councillor workshop be held once legal advice has been received.

Amendment 1 was **Lost**

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

The Motion was voted on - (Minute No. P132 refers)

RESUMPTION OF STANDING ORDERS

P 134

Cr J Owen
Cr P Allsop

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

1 [CNR-PC] E Zone and Offset Options in the West Kingscliff Area

P 135

Cr W Polglase
Cr J Owen

RECOMMENDED that:

1. Council considers the subject of this report:
 - a. an important matter of public interest that should be resolved as soon as possible;
 - b. that approval of any new development in the West Kingscliff area should not compromise the strategic resolution of this issue.
2. The General Manager or his delegate is to invite and make opportunity for further more detailed discussions with Gales Holdings and Gales Kingscliff in respect of their lands mapped within the boundary of the Draft Kingscliff Locality Plan and in so doing is to observe the following:
 - a. The location of environmental zones meeting the E zone criteria for the West Kingscliff area be generally in accordance with Figure 3 of this report;
 - b. An offset package be developed that:
 - i. is generally in accordance with the offset principles outlined in this report;
 - ii. ensures that any required offsets are delivered within the West Kingscliff area;
 - iii. ensures that the quantum of any offsets required is based on an established contemporary offset calculator;

- iv. is reflected in a revised Kingscliff Locality Plan including maps to identify offset areas;
 - v. any identified offset areas are included in an environmental protection zone at an appropriate time;
 - vi. is secured by an appropriate legally binding mechanism such as a planning agreement under the *Environmental Planning and Assessment Act 1979*.
3. Should the offset package referred to above not be finalised to the satisfaction of the General Manager:
 - a. all areas that meet the NSW Government's E zone criteria are to be proposed for environmental protection zoning; and
 - b. this outcome be reflected within the Draft Kingscliff Locality Plan.
4. Council does not support the removal of any existing environmental protection zones in the West Kingscliff area.
5. Council acknowledges Gales Holdings concerns expressed in the GHD letter of 6 December 2017, commends Gales for committing to a holistic assessment of their lands and expresses its' wishes to continue to work collaboratively to achieve a positive outcome for the Kingscliff community.
6. A further report be presented to Council addressing Gales concerns expressed in GHD letter of 6 December 2017.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 2 **[PR-PC] Development Application DA17/0271 for Alterations and Additions to an Existing Building (Including Minor Demolition) and Use of the Building as a Mixed Use Development Comprising an Entertainment Facility, Function Centre and Food and Drink Premises at Lot A DP 395020 No. 21 Queen Street, Murwillumbah**

P 136

Cr P Allsop
Cr W Polglase

RECOMMENDED that Development Application DA17/0271 for alterations and additions to an existing building (including minor demolition) and use of the building as a mixed use development comprising an entertainment facility, function centre and food and drink

premises at Lot A DP 395020 No. 21 Queen 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 881/16, sheets 1-4, revision B prepared by Trevor White Building Design and dated 14 November 2017, 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. Any business or premises proposing to discharge wastewater containing pollutants differing from domestic sewage must submit a Liquid Trade Waste Application Form to Council. The application is to be approved by the General Manager or his delegate prior to any discharge to the sewerage system. A Liquid Trade Waste Application fee will be applicable in accordance with Council's adopted Fees and Charges.
[GEN0190]
4. Geotechnical investigations and assessment of the subject site shall be in accordance with the recommendations and constraints as specified in the Preliminary Slope Stability Assessment by Geotech Investigations Pty Ltd dated 22 August 2014, except where varied by the conditions of this consent.

In addition to above the following shall be submitted to Council prior to the issue of a Construction Certificate:

- (a) A detailed geotechnical investigation must be carried out on the subject site prior to detailed design and final structural design of the retaining wall/s.
 - (b) All risks identified in Table 1 shall be improved to an acceptable risk category as detailed in the Preliminary Slope Stability Assessment. The design shall demonstrate compliance for each risk category with supporting geotechnical certification.
 - (c) As outlined in the Preliminary Slope Stability Assessment, to reduce risk to life a "catch" or barrier for minor debris slides and erosion shall be provided with supporting geotechnical certification. The above may form part of the retaining wall.
[GENNS01]
5. Prior to the issue of a Construction Certificate design detail including surcharge loads for any retaining walls to be erected on the site in accordance with AS 4678, Tweed Shire Council Development Control Plan Part A1 and Council's Development Design and Construction Specifications.

In addition to the above the design of all retaining walls need to take into account any sloping ground surface behind the walls, as well as the usual design constraints and issues.

Design detail is to be supported by certification of adequacy of design from a suitably qualified structural engineer with supporting geotechnical certification and submitted to Council.

Please note timber retaining walls are not permitted.

[GENNS02]

6. The following works are to be undertaken to ensure that the building is provided with a satisfactory level of fire safety and accessibility;
 - i) Access for people with a disability is to be provided to and within the building in accordance with Part D3 of the NCC-BCA 2017 and AS 1428.1 - 2009. In particular the opening located between the lounge and hall will need to be increased in accordance with AS 1428.1 - 2009.
 - ii) Emergency lighting and exit signs are to be provided throughout the building in accordance with Part E4 of the National Construction Code - BCA - 2017 and AS 2293.1 - 2005.
7. Access to the premises shall be provided in accordance with the Disability Discrimination Act, 1992 (Commonwealth)

Advisory note:

Where compliance with the standards cannot be achieved, the applicant may apply for a variation under the *hardship* clause. Any application for hardship must be supported by a report by a qualified *Access and Mobility consultant* and will be considered by the Certifying Authority.

8. The green room and associated balcony are for the use of staff and performers only and is not available for the use of the general public.
9. The roof deck is for the use of staff only and is not available for the use of the general public.

[GENNS03]
10. Covering the original Salvation Army Citadel signage is not approved under this development consent. The text of the original sign may be painted out with the cream background colour so as to not be obvious.

[GENNS04]
11. The partially rendered balustrade to the green room balcony shall be painted to match the colour of the existing awning to the citadel.
12. Any proposed loading zone is required to be approved by the Local Traffic Committee.

[GENNS05]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

13. Section 94 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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:
- | | |
|---|------------|
| 8.72 Trips @ \$1415 per Trips | \$7,403.40 |
| (\$1,317 base rate + \$98 indexation) | |
| (\$4,935.60 has been subtracted from this total as this development is deemed an 'Employment Generating Development') | |
| S94 Plan No. 4 | |
| Sector9_4 | |

[PCC0215]

14. 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 = 0.3693 ET @ \$6,431 = \$2,375.00

15. 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]

16. 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]

17. 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]

18. In accordance with Section 68 of the Local Government Act, 1993 any premises proposing to discharge wastewater into Council's sewerage system other than domestic sewage, shall submit to Council a completed Liquid Trade Waste Application for a Liquid Trade Waste Services Agreement. The Application is to be approved by the General Manager or his delegate PRIOR to the issuing of a Construction Certificate to discharge to Council's sewerage system.

[PCC1255]

PRIOR TO COMMENCEMENT OF WORK

19. 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]

20. 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
 - (i) the person having the benefit of the development consent has:
 - (ii) appointed a principal certifying authority for the building work, and

- (b) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - (i) the principal certifying authority has, no later than 2 days before the building work commences:
 - (ii) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
- (c) 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
 - (i) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (ii) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
- (d) notified the principal certifying authority of any such appointment, and
 - (i) 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]

21. 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]

22. 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]

23. 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]

24. 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]

25. 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]

26. 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]

27. 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

28. 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]

29. 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]

30. 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]

31. 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).

[DUR0335]

32. 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]

33. 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]

34. 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]

35. 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]

36. 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]

37. 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]

38. 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]

39. 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]

40. Provision to be made for a flood free storage area for stock and equipment susceptible to water damage.

[DUR1395]

41. All walls in the food preparation and storage areas shall be of solid construction. For this purpose walls in such areas may be of masonry or stud wall construction. If stud wall construction is used then the wall shall be lined as a minimum with 9mm thick high impact resistant material eg. Villaboard or Versilux lining or other suitable material(s) approved by Council's Environmental Health Officer and tiled to a height of at least 2 meters.

Masonry walls where not tiled may be cement rendered to provide a smooth faced impervious finish up to the underside of the ceiling.

Metal stud wall framing in lieu of timber framing shall be used in areas where the walls and floor surfaces will be subjected to high levels of moisture or alternatively as directed by Council's Environmental Health Officer.

All penetrations of the wall surface in food preparation areas shall be effectively sealed to the satisfaction of Council's Environmental Health officer.

[DUR1495]

42. All flooring materials in the food preparation and storage areas are to be impervious, non slip, non abrasive and capable of withstanding heavy duty operation. Where tiling is to be used epoxy grout finished flush with the floor surface is to be used in joints or alternatively all tiles are to be butt joined and free of cracks or crevices.

[DUR1505]

43. Windows and doors opening into food handling, preparation and storage areas shall be pest proofed in accordance with the provisions of Food Safety Standard 3.2.3.

[DUR1515]

44. Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of the General Manager or his delegate.

[DUR1545]

45. During the course of the construction and fitout of the kitchen/food premises periodic inspections must be arranged with Councils Environmental Health officer to ensure compliance with all health related conditions of approval and respective legislation.

[DUR1575]

46. 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]

47. 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]

48. 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]

49. 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]

50. 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]
51. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.
[DUR2015]
52. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blown from the site.
[DUR2185]
53. 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. A screened, graded and drained garbage storage area shall be provided within the boundary.
[DUR2205]
54. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.
[DUR2425]
55. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
 - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - (c) external drainage prior to backfilling.
 - (d) completion of work and prior to occupation of the building.
- [DUR2485]
56. Plumbing
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
 - (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500.
[DUR2495]
57. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.
[DUR2525]
58. 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]

59. 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]

60. 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]

61. All works shall be carried out in accordance with the approved food premises fitout plans and schedule of conditions, or to the satisfaction of Council's Environmental Health Officer.

[DURNS01]

62. The exportation or importation of fill or soil from or to the site must be in accordance with the provisions of the Protection of the Environment Operations Act (POEO) 1997 and the Office of Environment and Heritage "Waste Classification Guidelines".

[DURNS02]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

64. A noise management plan shall be prepared and submitted to the satisfaction of the General Manager or his delegate which details how noise from onsite activities will be managed and controlled, so as to prevent the generation or emission of intrusive noise. Such management plan shall be submitted and approved prior to the issue of the occupation certificate

[POC0125]

65. 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]

66. 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]

67. 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]

68. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval.

[POC0615]

69. The proprietor of the food premises shall provide appropriate notification to Council prior to commencement of operations by completing the "Application for Food Premises Registration" form available at www.tweed.nsw.gov.au or alternatively by contacting Council on 02 6670 2400.

[POC0625]

70. The premises is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request.

[POC0635]

71. 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]

72. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.

[POC1055]

USE

73. 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]

74. The $L_{Aeq, 15 \text{ min}}$ noise level emitted from the premises shall not exceed the background noise level (L_{A90}) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.

[USE0165]

75. 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]

76. Hours of operation of the business are restricted to the following hours:

Citadel

- * 8.00am to 10.00pm - Sunday to Thursday
- * 8.00am to 12am (midnight) - Friday to Saturday

Cafe

- * 8.00am to 10.00pm - Monday to Sunday

[USE0185]

77. All deliveries to the premises are to occur only within the hours of 7.00am to 6.00pm Monday to Saturday and 8.00am to 6.00pm Sunday and public holidays, unless otherwise approved by Councils General Manager or his delegate. Urgent or medical related deliveries exempted.

[USE0195]

78. 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]

79. 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]

80. The servicing of waste facilities shall be limited to between the hours of 7.00am to 6.00pm Monday to Saturday and 8.00am to 6.00pm Sunday and public holidays.

[USE0285]

81. A post construction noise assessment report from a suitably qualified acoustic consultant shall be prepared and submitted to the satisfaction of the General Manager or his delegate in respect to noise likely to be generated by the activities associated with the venue.

The assessment report shall consider the Noise Level Impact Assessment for 21 Queen Street, Murwillumbah prepared by Craig Hill Acoustics dated 9 November 2017 (Reference091117/3) and include any recommended noise amelioration measures to be carried out by the applicant. The report shall be submitted within a period not exceeding 60 days of the date of operation of the venue.

The applicant shall carry out any such recommendations as provided within the noise assessment report to the satisfaction of the General Manager or his delegate within 30 days from the date of the acoustic assessment, provided that the General Manager or his delegate may extend the time period for the carrying out of any recommended acoustic treatment to a date which may be determined by the General Manager or his delegate.

[USE0295]

82. The development shall be carried out in accordance with the provisions of the Noise Level Impact Assessment for 21 Queen Street, Murwillumbah prepared by Craig Hill Acoustics dated 9 November 2017 (Reference091117/3) and the approved noise management plan to the satisfaction of Council's General Manager or delegate.

[USE0305]

83. 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]

84. All mechanical ventilation shall comply with AS1668.2 Ventilation Requirements.

[USE0845]

85. All wastes shall be collected, stored, and disposed of to the satisfaction of the General Manager or his delegate.

[USE0875]

86. The disposal of all wash water, oil, grease or other pollutants from the business shall be disposed of to the satisfaction of Council's General Manager or his delegate as outlined in the Liquid Trade Waste Services Agreement and General Conditions of Approval.

[USE1055]

87. The applicant and occupier of the premises is alerted to the smoke-free laws and requirements of the Smoke-Free Environment Act 2000, the Smoke Free Environment Regulation 2016, and guidelines for determining what is an enclosed public place. Enquiries may be directed to the NSW Ministry of Health or visiting www.health.nsw.gov.au/tobacco/Pages/smoke-free-laws.aspx.

[USE1075]

88. All activities shall be carried out in accordance with the requirements of Liquor and Gaming NSW and NSW Police.

[USE1085]

The Motion was **Carried**

FOR VOTE - Unanimous

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

P 137

SUSPENSION OF STANDING ORDERS

P 138

**Cr K Milne
Cr R Cooper**

RESOLVED that Standing Orders be suspended to allow Cr C Cherry to speak for longer than 5 minutes.

The Motion was **Carried**

FOR VOTE - Unanimous

RESUMPTION OF STANDING ORDERS

P 139

Cr W Polglase

Cr P Allsop

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

ALTERNATE MOTION

P 140

Cr W Polglase

Cr J Owen

RECOMMENDED that Development Application DA16/0795 for a Two Lot Subdivision and Use of an Existing Structure as a Dwelling at Lot 7 DP 1178620 No. 2041 Kyogle Road, Terragon be deferred and a further report be brought forward to the Council meeting of 15 February 2018 on the following draft proposed conditions of consent:

"DEFERRED COMMENCEMENT"

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

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

SCHEDULE "A"

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

- A. A report from an Accredited Building Surveyor detailing works required to the existing structure on proposed Lot 17 (including shipping containers to be utilised as bedrooms) to ensure the structure is able to comply with the requirements of the National Construction Code for Class 1 buildings.
- B. Plans of construction for the existing structure for proposed Lot 17 (floor plan, elevations, roof plans, sections etc.) that include any alterations that may be required to comply with the National Construction Code and BASIX requirements.

- C. An application for a Building Certificate for the existing structure for proposed Lot 17 is to be made to Council with the following information and reports:
- i. A report from a Geotechnical Engineer that details the soil conditions at the perimeter of the existing structure.
 - ii. A report from a Structural Engineer that details the structural adequacy of the existing structure and that details any structural alterations that may be required to be completed to it prior to Occupation.
 - iii. The submission of an energy efficiency report from an energy efficiency specialist specifying that the existing structure is able to comply with BASIX requirements. Particular reference should also be made to the habitable use of shipping containers that form part of the existing structure. Such report should also be accompanied by the actual BASIX Certificate for the existing structure.
 - iv. Certification in relation to the adequacy of; smoke alarms, termite protection, glazing and waterproofing.
 - v. A report from a quantity surveyor that details the value of all unauthorised building works on the site.
 - vi. A Certificate of Compliance from a licensed plumber for all plumbing and drainage works on the site.
 - vii. Clothes washing facilities shall be demonstrated to the satisfaction of the General Manager or his delegate.

SCHEDULE B

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

GENERAL

1. This consent authorises the subdivision of Lot 7 DP 1178620 into two future allotments and the ongoing use of an existing structure on future Lot 17 for the purposes of a dwelling. The development shall be completed in accordance with the amended development application and Subdivision Plan No 21303 prepared by B & P Surveys and dated 5 July 2016, and any other plans ultimately approved as per Schedule A above, including Plans of Management, and Floor Plans, Elevations, Roof Plans, Sections for the existing structure on new Lot 17, except where varied by the conditions of this consent.

[GENNS01]
2. The future house on proposed Lot 18 is to be the subject of a Development Application/Complying Development Certificate Approval as statutorily required only after the subdivision is registered and Lot 18 is lawfully created.

[GENNS02]

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

[GEN0125]
4. A roof catchment water supply source shall be provided for the domestic purposes where a Council reticulated supply is unavailable. Any domestic water supply roof collection system should be fitted with a first flush device and adequately maintained to ensure a safe and suitable drinking water supply, where applicable. The minimum storage tank capacity shall reflect the dry seasonal periods experienced in the locality and shall be in addition to any fire fighting capacity requirements stipulated by the NSW Rural Fire Services. The minimum storage capacity required shall be 15,000L per bedroom with a minimum 20,000L to be provided.

[GEN0310]
5. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works:
 - (a) Provision of a standard rural residential access to service both identified dwelling sites, in accordance with Council's Development Control Plan - Section A2 "*Site Access and Parking Code*" and Council's "*Driveway Access to Property - Design Specification*" (*current version*).
 - (b) Bitumen or concrete sealing of the accesses from the existing road carriageway to the property boundary.

[GENNS03]
6. Erosion and Sediment Control shall be designed, installed and maintained in accordance with Tweed Shire Council Development Design Specification D7 - Stormwater Quality and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[GENNS04]
7. Prior to the issue of a building certificate the applicant is required to lodge an application to install/operate an onsite sewerage management system under Section 68 of the Local Government Act 1993, for the existing structure for proposed Lot 17 and pay the appropriate fee and be issued with an approval.

Any approval to install an on site sewage treatment and disposal system shall comply with the recommended on site sewage treatment and disposal method as detailed in the Onsite Sewage Management Design Report HMC Environmental, April 2016 (HMC 2016.099.02 Revised) including all recommendations of that report and any addendum to the report or to the satisfaction of Councils General Manager or his delegate.
8. **With reference to Figure 3 of Habitat Restoration Plan Terragon dated January 2017 prepared by Bushland Restoration Services all 'Work Zone' types identified as 6, 7 and 8 on that plan are to collectively form and be described as the 'conservation area' for the purposes of this consent. The conservation area shall be protected and managed as a natural area for conservation in perpetuity. The conservation area shall be the subject to the existing habitat restoration program.**

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

Any local native trees greater than 200 mm diameter girth (measured at 1.4 m above ground)

Any locally recognised preferred Koala food trees regardless of height or girth being either *Eucalyptus robusta* (Swamp Mahogany) (including hybrids), *Eucalyptus tereticornis* (Forest Red Gum), *Eucalyptus propinqua* (Small-fruited Grey Gum) or *Eucalyptus microcorys* (Tallowwood)

The TSP shall:

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

Vegetation Management

- a. Particulars and locations of vegetation to be removed and vegetation to be retained in order to facilitate the development;
- b. A statement of the reasons why the damage is necessary and any relevant factors associated with the purpose of the proposed damage;
- c. Details of all proposed infrastructure, site access and services;
- d. Details of strategies and methods to be implemented to protect vegetation to be retained generally consistent with Australian Standard AS 4970-2009_Protection of trees on development sites;
- e. Quantification of compensatory planting applied to all trees identified to be removed on the approved TSP. Compensatory plantings shall:

- i. Be calculated at a ratio of 1:16 (remove:replace);
- ii. Aim to replace the same species removed;
- iii. Be installed within the approved conservation zone in accordance with the Habitat Restoration Plan;
- f. Methods for the reuse of felled vegetation from the subject site;
- g. Disposal methods for remaining debris after the above methods have been employed;
- h. Specify that all trees to be removed are to be clearly marked prior to any clearing activity.

Fauna management

- a. Identification of known and potential habitat trees (displaying values such as hollows, fissures, nests, drays, arboreal termitaria used as nests etc.) and description of fauna species known/likely to utilise habitat features;
 - b. Information on how trees are to be inspected for denning or nesting animals including constraints for inspecting trees (to provide acceptable alternative methods) and summary of removal and relocation methods for each faunal group (including observed species and species likely to occur in the area to be disturbed);
 - c. Considerations relating to time periods for when fauna is to be removed/flushed prior to clearing;
 - d. Details of special equipment required (such as cameras, elevated platforms etc.);
 - e. Identification of general locations that wildlife will be relocated/translocated to if required (based on habitat requirements);
 - f. Specify that a suitably qualified ecologist who holds a fauna survey licence is required to manage wildlife onsite during any tree removal and/or disturbance to wildlife habitat. Fauna management methods employed should be generally consistent with the Draft Queensland Code of Practice for the Welfare of Wild Animals Affected by Clearing and Other Habitat and Wildlife Spotter/Catchers (Hangar & Nottidge 2009) Where translocation is required the proponent shall seek any relevant permits from the state regulating agency (Office of Environment & Heritage). It is the responsibility of the proponents to ensure all relevant licences have been obtained prior to any fauna interactions.
11. The Habitat Restoration Plan (HRP) dated January 2017 prepared by Bushland Restoration Services be accepted as the required Habitat Restoration Plan for future conservation purposes.
12. All pre-construction vegetation and fauna management measures shall be satisfactorily completed in accordance with the approved Vegetation and Fauna Management Plan
13. Certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning And Design (BPAD) certified practitioner, must be submitted to Council, confirming that the dwelling, associated access and Asset Protection Zones in accordance with approved Tree Survey Plan on Lot 17 complies with the Rural Fire Service's General Terms of Approval imposed under Section 100B of the Rural Fires Act 1997 on the consent.
14. Compensatory planting works shall be completed to a specified level in the approved Vegetation and Fauna Management Plan prior to the release of subdivision certificate.

15. A building certificate for the existing dwelling on future Lot 17 shall not be issued until conditions relating to the safe habitation of the dwelling and bushfire requirements have been met.
16. The existing dwelling on future Lot 17 cannot be occupied until an Engineering Report certifying that it is safe for habitation, and certification that Bushfire safety requirements have been met, are submitted to Council.

DURING CONSTRUCTION

17. Construction and/or demolition site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council:

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

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

[DUR1005]

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

USE

23. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like. [USE0125]
24. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise. [USE0175]
25. The additional shipping containers located on Lot 17 marked as 'Storage Containers' on the site plan submitted on 22 May 2017 (on either side of the spa), shall not to be used or adapted for separate residential habitation or occupation. [USE0465]
26. The building on future Lot 17 is to be used for single dwelling purposes only. [USE0505]
27. Bushfire asset protection zones are to be maintained around the house site at all times to the satisfaction of the NSW Rural Fire Service. [USE0575]
28. The use of the site must be consistent with the approved Plans of Management. [USENS02]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

29. Prior to issue of a Subdivision Certificate, all works/actions/inspections etc. required by other conditions or approved Management Plans or the like shall be completed in accordance with those conditions or plans. [PSC0005]
30. Section 94 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's receipt confirming payment.

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

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

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

- (a) Tweed Road Contribution Plan:
6.5 Trips @ \$2723 per Trips \$12,400.43*
(\$2,534 base rate + \$189 indexation)
S94 Plan No. 4
Sector13_4
- (b) Open Space (Casual):
1 ET @ \$564 per ET \$400.44*
(\$502 base rate + \$62 indexation)
S94 Plan No. 5
- (c) Open Space (Structured):
1 ET @ \$645 per ET \$457.95*
(\$575 base rate + \$70 indexation)
S94 Plan No. 5
- (d) Shirewide Library Facilities:
1 ET @ \$869 per ET \$616.99*
(\$792 base rate + \$77 indexation)
S94 Plan No. 11
- (e) Eviron Cemetery:
1 ET @ \$127 per ET \$90.17*
(\$101 base rate + \$26 indexation)
S94 Plan No. 13
- (f) Community Facilities (Tweed Coast - North)
1 ET @ \$1457 per ET \$1,034.47*
(\$1,305.60 base rate + \$151.40 indexation)
S94 Plan No. 15
- (g) Extensions to Council Administration Offices
& Technical Support Facilities
1 ET @ \$1935.62 per ET \$1,374.29*
(\$1,759.90 base rate + \$175.72 indexation)
S94 Plan No. 18
- (h) Regional Open Space (Casual)
1 ET @ \$1132 per ET \$803.72*
(\$1,031 base rate + \$101 indexation)
S94 Plan No. 26
- (i) Regional Open Space (Structured):
1 ET @ \$3974 per ET \$2,821.54*
(\$3,619 base rate + \$355 indexation)
S94 Plan No. 26

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

[PSC0175]

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

[PSC0725]

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

[PSC0825]

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

[PSC0830]

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

- (a) Positive Covenant over the subject land (as applicable) to ensure that the required provisions of the "Planning for Bushfire Protection 2006" Guidelines and the General Terms of Approval of the Consent as imposed under Section 100B of the Rural Fires Act 1997 are enforced in perpetuity.
- (b) Restriction As To User to notify future owners that reticulated sewer is not available to the site and any future dwelling will be required to provide On-Site Sewerage Management in accordance with Council's On-Site Sewerage Management policy.
- (c) Restriction As To User to notify future owners that reticulated water supply is not available to the site and any future dwelling will be required to provide a roofwater supply system in accordance with Council's policies and Bushfire Planning requirements (the minimum storage capacity required shall be 15,000L per bedroom with a minimum 20,000L to be provided).

~~(d) Restriction as to user — all fauna management measures prescribed in the approved Site Based Koala Plan of Management shall be complied with at all times~~

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

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating a Right Of Carriageway or Easement shall make provision for maintenance of the Right Of Carriageway or Easement by the owners from time to time of the land

benefited and burdened and are to share costs equally or proportionally on an equitable basis (as applicable).

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

[PSC0835]

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

[PSC0845]

The following information must accompany an application:

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

[PSC0885]

38. Any boundary fence encroaching into the Kyogle Road road reserve along the developments, deemed by Council to be a safety risk is to be relocated to the correct alignment prior to issuing a Subdivision Certificate. Any road widening deemed necessary shall be dedicated at no cost to Council.
39. The production of written evidence from the local telecommunications supply authority certifying that the provision of telecommunications at the front boundary of both allotments has been completed.

[PSC0945]

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

The NBN letter must reference:

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

[PSC1165]

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

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

Unless agreed otherwise by Council, the form must reference:

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

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

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

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

[PSC1175]

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

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

Asset Protection Zones

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

2. At the issue of subdivision certificate and in perpetuity, the land surrounding the dwelling on proposed Lot 17 shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones' as follows:

- north for a distance of 52 metres as an IPA;
- south for a distance of 21 metres as an IPA;

- east for a distance of 62 metres as an IPA; and
 - west for a distance of 52 metres as an IPA.
3. A restriction to the land use, pursuant to section 88B of the 'Conveyancing Act 1919', shall be placed upon proposed Lot 18 identifying:
- a building envelope as identified on the plan prepared by B & P Surveys titled 'Proposed Subdivision of Lot 7 in DP 1178620, 2041 Kyogle Road, Terragon' referenced M30653, sheet 1 of 2, revision D and dated 5th July, 2016; and
 - an asset protection zone around the building envelope for a distance of 19 metres to the north and east and 21 metres to the south and west.

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

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

Water and Utilities

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

5. In recognition that no reticulated water supply is available to the development, a total of 20,000 litres firefighting water supply shall be provided to the dwelling on proposed Lot 17 for fire fighting purposes. The fire fighting water supply shall be installed and maintained in the following manner:
- a) Fire fighting water supply tank(s) shall be located not less than 5 metres and not more than 20 metres from the approved structure.
 - b) New above ground fire fighting water supply storage's are to be manufactured using non combustible material (concrete, metal, etc). Where existing fire fighting water supply storage's are constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials, they shall be shielded from the impact of radiant heat and direct flame contact.
 - c) Non combustible materials (concrete, metal, etc) will only be used to elevate or raise fire fighting water supply tank(s) above the natural ground level.
 - d) A 65 mm metal Storz outlet with a gate or ball valve shall be fitted to any fire fighting water supply tank(s) and accessible for a fire fighting truck.

- e) The gate or ball valve, pipes and tank penetration are adequate for the full 50 mm inner diameter water flow through the Storz fitting and are constructed of a metal material.
- f) All associated fittings to the fire fighting water supply tank(s) shall be non-combustible.
- g) Any below ground fire fighting water supply tank(s) constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials shall be shielded from the impact of radiant heat and direct flame contact.
- h) A hardened ground surface for fire fighting truck access is to be constructed up to and within 4 metres of the fire fighting water supply (tank or Storz fitting).
- i) Any fire fighting water supply tank(s) located below ground shall be clearly delineated to prevent vehicles being driven over the tank.
- j) All water supplies for fire fighting purposes shall be clearly signposted as a fire fighting water supply.
- k) Below ground fire fighting water supply tank(s) shall have an access hole measuring a minimum 200 mm x 200 mm to allow fire fighting trucks to access water direct from the tank.
- l) Fire fighting water supply tank(s) and associated fittings, located within 60 metres of a bushfire hazard and on the hazard side of an approved building, shall be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for fire fighters.
- m) A minimum 5hp or 3kW petrol or diesel powered pump(s) shall be made available to the water supply. A 19mm (internal diameter) fire hose(s) and/or reel(s) shall be connected to the pump. Fire hose(s) and/or reel(s) must be installed so that each elevation of the building can be reached by a fire hose(s). The fire hose(s) and/or reel(s) must be constructed in accordance with 'AS/NZS 1221:1997, Fire hose reels' and shall be installed in accordance with 'AS 2441:2005 Installation of fire hose reels'.
- n) Pumps are to be shielded from the direct impacts of bush fire.
- o) A Static Water Supply (SWS) sign shall be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:
 - i. Markers must be fixed in a suitable location so as to be highly visible; and
 - ii. Markers should be positioned adjacent to the most appropriate access for the water supply.

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

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

Access

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

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

Design and Construction

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

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

Landscaping

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

The Motion was **Carried**

FOR VOTE – Unanimous

4 [PR-PC] Development Application DA17/0606 for a Rural Workers Dwelling at Lot 1 DP 1189444 No. 1787 Kyogle Road, Terragon

P 141

**Cr K Milne
Cr P Allsop**

RECOMMENDED that this item not be dealt with as the Development Application has been withdrawn.

The Motion was **Carried**

FOR VOTE - Unanimous

5 [PR-PC] Development Application DA16/0178 for the Use of Unauthorised Additions to Two Existing Dwellings and Shed at Lot 2 DP 348945 No. 54 Phillip Street, Chinderah

Cr R Cooper temporarily left the meeting at 06:44 PM.

P 142

**Cr J Owen
Cr P Allsop**

RECOMMENDED that Development Application DA16/0178 for the use of illegal additions to two existing dwellings and shed at Lot 2 DP 348945 No. 54 Phillip Street, Chinderah be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and the following plans:
 - Sheet 1 of 7 Site Plan & Site Analysis prepared by Parameter Designs and dated 29 September 2017;
 - Sheet 2 of 7 House 1 Floor Plan prepared by Parameter Designs and dated 29 September 2017;
 - Sheet 3 of 7 Existing Storage Shed House 2 Floor Plan prepared by Parameter Designs and dated 29 September 2017;
 - Sheet 4 of 7 House 1 Elevations prepared by Parameter Designs and dated 29 September 2017;

- Sheet 5 of 7 House 2 Elevations prepared by Parameter Designs and dated 29 September 2017;
- Sheet 6 of 7 Shed Elevations prepared by Parameter Designs and dated 29 September 2017;
- Sheet 7 of 7 Section A-A prepared by Parameter Designs and dated 29 September 2017;

except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

3. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property.

[GEN0135]

4. All works including the raising of House 2 and required upgrade works are to be completed with final occupation certificate issued within 2 years from the date of this consent.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. 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]

6. Details of the rectification works/certification to satisfy the outstanding items relating to the Building Certificate applications; BC16/0036 (See Council's BC deferral correspondence dated 4 May 2016) for House 1 and BC16/0113 (See Council's BC deferral correspondence dated 22 September 2016) for House 2, carport and the metal shed are to be submitted to and approved by the nominated PCA prior to the issue of the Construction Certificate.

7. Details of the rectification works to satisfy the AS3959-2009 upgrading works as specified in the Amended Bushfire Threat Assessment report prepared by Bushfire Risk dated 28 September 2017 are to be submitted to and approved by the nominated PCA prior to the issue of the Construction Certificate.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

8. 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]

9. The erection of a structure 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. 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]

12. 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]

13. 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

14. 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]

15. Construction and/or demolition site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council:

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

16. 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]

17. 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]

18. 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]

19. 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]

20. 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]

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. 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]
24. 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]
25. 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]
26. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR2505]
27. 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]
28. 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

29. 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]
30. 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]

31. 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]

32. 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]

33. 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]

34. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.

[POC1055]

35. Prior to the issue of an occupation certificate, a building certificate/s are to be obtained in respect the two existing dwellings, carport and a metal clad shed on the subject site.

36. Prior to the issue of an occupation certificate, a report from a registered surveyor shall be provided to Council confirming that both dwelling's habitable upper floor levels are above the minimum habitable floor level of 3.7m AHD.

37. Prior to the issue of an occupation certificate, a Certificate from a suitably qualified bushfire consultant shall be provided to Council stating that all recommendations of the *Amended Bushfire Threat Assessment Report* (dated 28 September 2017 - Amended Version 2 by Bushfire Risk) have been achieved.

[POCNS01]

USE

38. The area of each dwelling below Council's design flood level is not to be totally enclosed. Only the enclosure of non-habitable areas such as laundry, stairway and garage spaces are permissible. A maximum area of 50m² will generally encompass these facilities.

39. The lower level of House 1 is not to be used for habitable purposes.

40. All building materials used below Council's design flood level must not be susceptible to water damage.

[USENS01]

Cr R Cooper has returned from temporary absence at 06:45 PM

The Motion was **Carried**

FOR VOTE - Unanimous

**7 [PR-PC] Draft Primary Production and Rural Development SEPP
EXPLANATION OF INTENDED EFFECT - SUBMISSION**

P 143

ALTERNATE MOTION

P 144

**Cr C Cherry
Cr K Milne**

RECOMMENDED that [PR-PC] Draft Primary Production and Rural Development SEPP EXPLANATION OF INTENDED EFFECT - SUBMISSION be deferred and a report be bought back to Council Meeting of 13 December 2017 including:

- a. Information relating to which industry groups were consulted; and
- b. How compatible the submission is with the Rural Land Strategy.

The Motion was **Carried**

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

8 [PR-PC] Tweed Landscape

Cr P Allsop temporarily left the meeting at 06:58 PM.

P 145

**Cr K Milne
Cr R Cooper**

RECOMMENDED that:

1. The progress update for the Draft Scenic Landscape Strategy is noted; and
 2. The options for establishing better quality design controls for protecting prominent and/or visually sensitive locations from development that may undermine or devalue the Shire's scenic identity are noted,
 3. Amend the Council's housing code to include design objectives and if appropriate controls that require consideration of scenic impact at the development application stage.
-

4. Prepare and endorse a high level policy that clearly articulates Council's position with respect to the preservation of the Shire's scenic values; and
5. The delivery of the Scenic Landscape Strategy is a priority and once made is to be supported by any necessary or advantageous corresponding amendment to the Tweed Local Environmental Plan(s) and Tweed Development Control Plan 2008.

The Motion was **Carried**

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

AGAINST VOTE - Cr J Owen, Cr W Polglase

ABSENT. DID NOT VOTE - Cr P Allsop

Cr P Allsop has returned from temporary absence at 07:00 PM

ADJOURNMENT OF MEETING

Adjournment for dinner at 7.00pm.

RESUMPTION OF MEETING

The Meeting resumed at 7.45pm

10 [PR-PC] Planning Proposal PP17/0001 for Housekeeping Review of Development Standards

ALTERNATE MOTION

P 146

Cr R Cooper

Cr K Milne

RECOMMENDED that Council endorse the following:

1. The planning proposal for housekeeping review of development standards be submitted to the NSW Department of Planning and Environment for a Gateway Determination, in accordance with s56 of the Environmental Planning and Assessment Act 1979;
- 1A Prior to referring the planning proposal under Item 1 above the planning proposal is to be amended to specifically and clearly state within the opening to Part 1 – 'Objectives or intended outcomes' that the maximum building height measured in storeys for all land regulated by Tweed Local Environmental Plan 2014 is three storey, except where specifically varied by an existing endorsed planning control, as illustrated in Table 1 to the Planning Proposal.

2. The Minister for Planning and Environment or his delegate be advised that Tweed Shire Council is not seeking plan making delegations for this planning proposal;
3. Following receipt of the Gateway Determination the planning proposal be publicly exhibited in accordance with the Gateway Determination and a further report is to be submitted to Council detailing the content of submissions received and any proposed amendment(s);
4. Council undertakes a similar housekeeping review in relation to building heights to include storeys for Tweed City Centre Local Environmental Plan 2012 at the earliest opportunity.
5. A review of the building heights in the Tweed Development Control Plan 2008, Section B19 'Bogangar/Cabarita Beach Locality Plan', and the 'town centre' height controls in B24 'Area E Urban Release Development Code' be undertaken with community consultation at the earliest time.

The Motion was **Carried**

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

11 [PR-PC] Council Submission on the Independent Pricing and Regulatory Tribunal (IPART) Application for a Network Operators and Retail Suppliers Licence for the Kings Forest Waste Water Treatment Plant and Reticulation Network at 86 Melaleuca Road Kings Forest

Cr K Milne declared a Non-Significant, Non-Pecuniary Interest in this item. The nature of the interest is that Cr K Milne has ongoing legal matters in regard to defamation with the Chairman of Leda Holdings, the developer of the Kings Forest development. Cr K Milne will manage the Interest by staying in the Chair and assessing the matter on merit alone.

P 147

Cr J Owen
Cr P Allsop

RECOMMENDED that Council endorses the attached submission (Attachment 1) to IPART, in response to the public exhibition of the Network Operators and Retail Suppliers Licence under the Water Industry Competition Act 2006 for the Kings Forest development.

The Motion was **Carried**

FOR VOTE - Unanimous

**12 [PR-PC] Dwelling at Lot 7 DP 1234914 No. 2629 Kyogle Road, Kunghur
ALTERNATE MOTION**

P 148

**Cr K Milne
Cr C Cherry**

RECOMMENDED that:

1. [PR-PC] Dwelling at Lot 7 DP 1234914 No. 2629 Kyogle Road, Kunghur be deferred to the Council meeting of 13 December 2017.
2. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (a) personnel matters concerning particular individuals (other than councillors).

The Motion was **Carried**

FOR VOTE - Unanimous

**13 [PR-PC] Unauthorised Works and Land Use at 13 Beryl Street, Tweed Heads
- Medical Practice**

P 149

**Cr R Cooper
Cr R Byrnes**

RECOMMENDED that, in respect of the premises No. 13 Beryl Street, Tweed Heads, Council seeks legal advice to cease the unauthorised land use and appropriate action to remedy the unauthorised works.

The Motion was **Carried**

FOR VOTE - Unanimous

AMENDMENT 1

P 150

**Cr K Milne
Cr C Cherry**

PROPOSED that [PR-PC] Unauthorised Works and Land Use at 13 Beryl Street, Tweed Heads - Medical Practice be deferred to the Council meeting of 13 December 2017.

Amendment 1 was **Lost**

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

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

The Motion was voted on - (Minute Number P149 refers)

14 [PR-PC] Proposal to Establish Alcohol-Free Zones

P 151

Cr C Cherry

Cr W Polglase

RECOMMENDED that Council:

1. Approves the establishment and timeframes of alcohol-free zones in accordance with Section 644B of the Local Government Act 1993, within Tweed Heads, Tweed Heads South, Kingscliff, Salt, Cabarita Beach, and Murwillumbah areas over roads, footpaths, and public carparks for a maximum period of four years expiring no later than 1 December 2021 as outlined in *Alcohol-Free Zones within Tweed Shire 2017* and as follows:

TWEED HEADS

- Boundary Street between Wharf Street and Coral Street;
- Public car park adjoining Twin Towns Services Club;
- Wharf Street between Bay Street and the Queensland border;
- Bay Street, east of Wharf Street to John Follent Park; and
- Chris Cunningham Park public carpark.

24 hours per day, all days

TWEED HEADS SOUTH

- Public car park adjoining Tweed Regional Aquatic Centre (TRAC) Tweed Heads South, Home and Community Care (HACC), and South Tweed Skate Park.

24 hours per day, all days

KINGSCLIFF

- Marine Parade between Turnock Street and Cudgen Creek;
- Turnock Street between Marine Parade and Pearl Street;
- Pearl Street between Turnock Street and Seaview Street;
- Seaview Street between Pearl Street and Marine Parade; and
- Lions Park and Faulks Park public carparks and the public carpark adjoining Kingscliff Memorial Park.

24 hours per day, all days

SALT

- Bells Boulevard

Between the hours of 4pm December 31 to 10am January 1

CABARITA BEACH

- Pandanus Parade; and
- Public carpark between Palm Avenue and Pandanus Parade.

24 hours per day, all days

MURWILLUMBAH

- Queensland Road between 'Harry Williams Gate' of the Murwillumbah Showgrounds and Murwillumbah Street;
- Public car park area near Mount Saint Patricks School on Queensland Road;
- Bent Street between Queensland Road and Church Street;
- Church Street between Bent Street and Queen Street;
- Alice Street between Queen Street and Church Street;
- Church Lane;
- Police Lane;
- Bruce Lane;
- Queen Street between Murwillumbah Street and Church Street;
- Murwillumbah Street between Nullum Street and Queen Street;
- Wharf Street between Queen Street and Tumbulgum Road;
- Proudfoots Lane;
- Public carparks between Wollumbin Street and Proudfoots Lane;
- Commercial Road between Wharf Street and King Street;
- King Street between Commercial Road and Brisbane Street;
- Public carpark between Lavender Lane and King Street;
- Lavender Lane;
- Brisbane Street between Murwillumbah Street and Condong Street;
- Condong Street between Brisbane Street and Nullum Street;
- Nullum Street between Condong Street and Murwillumbah Street;
- Wollumbin Street between Nullum Lane and Commercial Road;
- Nullum Lane between Wollumbin Street and Byangum Road;
- Byangum Road between Nullum Lane and Muwillumbah Street;
- Alma Street between Commercial Road and Tweed Valley Road;
- Tumbulgum Road between Wharf Street and Racecourse Road;
- Public carparks adjoining Tweed Shire Council civic centre and swimming pool;
- Sunnyside Lane;
- Factory Lane between King Street and Wollumbin Street;
- Budd Park public carpark;
- Knox Park public carpark; and
- Red Cross Hall public carpark.

24 hours per day, all days

Excluding those businesses approved by Council for the purposes of footpath dining whilst those businesses are trading.

2. Delegates to the General Manager authority to vary or suspend the alcohol-free zones for special circumstances.
3. Notifies prescribed interested parties including NSW Police Local Area Commander and officers in charge of Tweed Heads, Kingscliff, and Murwillumbah Police Stations, and any liquor licensees and secretaries of registered clubs whose premises are adjacent to any Alcohol-Free Zones within Tweed Shire.

The Motion was **Carried**

FOR VOTE - Unanimous

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

P 152

**Cr C Cherry
Cr K Milne**

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

The Motion was **Carried**

FOR VOTE - Unanimous

There being no further business the Planning Committee Meeting terminated at 8.23pm.

