



**TWEED**  
SHIRE COUNCIL

**Mayor:** Cr B Longland (Mayor)

**Councillors:** P Youngblutt (Deputy Mayor)  
D Holdom  
K Milne  
W Polglase  
K Skinner  
J van Lieshout

# **Minutes**

## **Planning and Regulation Reports**

### **Ordinary Council Meeting**

### **Tuesday 20 March 2012**

held at Murwillumbah Cultural and Civic Centre  
commencing at 10.30am

## COUNCIL'S CHARTER

Tweed Shire Council's charter comprises a set of principles that are to guide Council in the carrying out of its functions, in accordance with Section 8 of the Local Government Act, 1993.

Tweed Shire Council has the following charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;
- to exercise community leadership;
- to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism;
- to promote and to provide and plan for the needs of children;
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development;
- to have regard to the long term and cumulative effects of its decisions;
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible;
- to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government;
- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants;
- to keep the local community and the State government (and through it, the wider community) informed about its activities;
- to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected;
- to be a responsible employer.

## **IN ATTENDANCE**

Cr B Longland (Mayor), Cr P Youngblutt (Deputy Mayor), Cr D Holdom, Cr K Milne, Cr W Polglase, Cr K Skinner and Cr J van Lieshout.

Also present were Mr Mike Rayner (General Manager), Mr Troy Green (Director Technology and Corporate Services), Mr Patrick Knight (Director Engineering and Operations), Mr Vince Connell (Director Planning and Regulation), Mr David Oxenham (Director Community and Natural Resources), Mr Neil Baldwin (Manager Corporate Governance/Public Officer) and Mrs Kerrie McConnell (Minutes Secretary).

## **ORDINARY ITEMS FOR CONSIDERATION**

### **REPORTS THROUGH THE GENERAL MANAGER**

### **REPORTS FROM THE DIRECTOR PLANNING AND REGULATION**

#### **11 [PR-CM] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards**

**152**

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that Council notes the February 2012 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

***FOR VOTE - Unanimous***

#### **12 [PR-CM] Development Application DA11/0444 for a 68 Lot Subdivision (Including 1 Open Space Lot) at Lot 29 DP 1027531 & Lot 30 DP 1027531 Casuarina Way, Casuarina**

**153**

**Cr D Holdom**  
**Cr P Youngblutt**

**RESOLVED** that Development Application DA11/0444 for a 68 lot subdivision (including 1 open space lot) at Lot 29 DP 1027531 & Lot 30 DP 1027531; Casuarina Way, Casuarina 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:
  - Plan No 208477-04 (Rev H) – Proposed Subdivision, prepared by RPS and dated 14 February 2012;
  - Plan No 208477-08 (Rev H) – Parking Analysis Proposed, prepared by RPS and dated 14 February 2012
  - Plan No 208477-09 (Rev E) – Building Envelope, prepared by RPS and dated 14 February 2012,

except where varied by the conditions of this consent.

[GEN0005]

2. The use of crushing plant machinery, mechanical screening or mechanical blending of materials is subject to separate development application.

[GEN0045]

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

[GEN0125]

4. All construction works shall comply with Part 6.2 Recommended Acoustic Treatments for Onsite Construction Activities of the Traffic Engineering Assessment CRG, 31 August 2011.

[GEN0135]

5. All construction works shall comply with Part 6.2 Recommended Acoustic Treatments for Onsite Construction Activities of the Traffic Engineering Assessment CRG, 31 August 2011.

[GENNS01]

6. No residential, associated buildings or structures are permitted on land zoned 7(f) Environmental Protection (Coastal Lands).

[GENNS02]

7. The developer is to undertake care and maintenance operations on all streetscapes and casual open space for a minimum of 12 months after the Subdivision is registered with the Land Titles Office. This is the establishment period for new plantings. Such maintenance will include all soft landscaping, particularly mowing and weed control. Any power and water consumption costs during this period must also be met by the developer.

[GENNS03]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

8. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the

value of the works as set out in Council's fees and charges at the time of payment.

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Subdivision/Occupation Certificate is issued.

[PCC0275]

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

[PCC0285]

10. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.

All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be detailed on the application for a Construction Certificate.

[PCC0485]

11. A Traffic Control Plan in accordance with AS1742 and the latest version of the RTA publication "Traffic Control at Work Sites" shall be prepared by an RTA accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.

[PCC0865]

12. The proponent shall submit plans and specifications with an application for construction certificate for the following civil works and any associated subsurface overland flow and piped stormwater drainage structures designed in accordance with Councils Development Design and Construction specifications.

Urban Road

- (a) Construction of an urban bitumen sealed road formation (Proposed Road 1) to a pavement width of 10.8m and with upright kerb and guttering.
- (b) Construction of an urban bitumen sealed road formation (Proposed Road 2) to a pavement width of 6m with upright kerb and guttering.

#### Driveways

- (c) The driveways as detailed on the "Proposed Parking Provision" plan prepared by RPS, dated 14 February 2012 are to be constructed at the subdivision stage to accommodate the proposed car parking on Road 1. The driveways are to be designed and constructed in accordance with Council's standards for driveways. The driveway details are to be shown on the Construction Certificate.

#### Pedestrian Refuge

- (d) A pedestrian refuge or similar alternative is to be constructed on Casuarina Way for the purpose of crossing to the proposed park. The pedestrian refuge is to be placed in a suitable location to not create conflict with the existing bus layback areas on Casuarina Way.

#### Right of Carriageway

- (e) The proposed right of carriageway is to be constructed to 150mm thick, 4.5m wide reinforced concrete over a compacted roadbase material. The easement / right of carriageway shall be 1m wider than the pavement and any associated batters, catch drains or service corridors.

#### Reticulation

- (f) The proposed water main in Road 3 is to be constructed as a standard cul-de-sac loop as per Council's standard drawings for water reticulation.

[PCC0875]

13. Prior to the issue of a Construction Certificate for civil works the following detail in accordance with Councils Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

- (a) copies of compliance certificates relied upon
- (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
- earthworks
  - roadworks/furnishings
  - stormwater drainage
  - water supply works
  - sewerage works
  - landscaping works
  - sedimentation and erosion management plans
  - location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure)

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

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

- (a) The Construction Certificate Application shall detail stormwater management for the occupational or use stage of the development in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.
- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management.

[PCC1105]

15. Erosion and Sediment Control shall be provided in accordance with the following:
- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
  - (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

16. Prior to the issue of a construction certificate a construction management plan (which addresses as a minimum sediment control, water quality monitoring, construction noise management, dust control) shall be submitted to the satisfaction of the General Manager or his delegate. All work shall comply with that approved plan.

[PCCNS01]

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

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

[PCW0005]

18. Civil work in accordance with a development consent must not be commenced until:
- (a) a construction certificate for the civil work has been issued in accordance with Councils Development Construction Specification C101 by:
    - (i) the consent authority, or
    - (ii) an accredited certifier, and
  - (b) the person having the benefit of the development consent:
    - (i) has appointed a principal certifying authority,
    - (ii) has appointed a Subdivision Works Accredited Certifier (SWAC) accredited in accordance with Tweed Shire Council DCP Part A5 – Subdivision Manual, Appendix C with accreditation in accordance with the Building Professionals Board Accreditation Scheme. As a

minimum the SWAC shall possess accreditation in the following categories:

C4: Accredited Certifier – Stormwater management facilities construction compliance

C6: Accredited Certifier – Subdivision road and drainage construction compliance

The SWAC shall provide documentary evidence to Council demonstrating current accreditation with the Building Professionals Board prior to approval and issue of any Construction Certificate, and

- (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment,
  - (iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and
- (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the civil work.

[PCW0815]

19. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

This sign is to remain in position for the duration of the project.

[PCW0985]

20. Prior to the commencement of work, a detailed landscape plan prepared by a qualified landscape architect must be submitted for all areas of casual open space, structured open space and streetscapes to be dedicated to Council. Such a plan must be approved by the Manager, Recreation Services, Tweed Shire Council and include embellishments such as listed in Councils Subdivision Manual (Section A5 of the Tweed Development Control Plan) and Development Design Specification (D14) and related Standard Drawings and include grassing, landscaping, seating, and shade cover. The plans must provide slope information and indicate all underground services.

[PCWNS01]

## **DURING CONSTRUCTION**

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

[DUR0005]



22. 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]
23. 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]
24. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".  
The earthworks shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to the Principal Certifying Authority upon completion.
- [DUR0795]
25. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited.
- [DUR0815]
26. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council General Manager or his delegate.
- [DUR0985]
27. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate.
- [DUR0995]
28. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

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

[DUR1005]

29. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

30. Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval and demonstrating.
- (a) That the pavement has been designed in accordance with Tweed Shire Councils Development Design Specification, D2.
  - (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.
  - (c) That site fill areas have been compacted to the specified standard.
  - (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR1805]

31. During the relevant stages of road construction, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface demonstrating:
- (a) That the pavement layers have been compacted in accordance with Councils Development Design and Construction Specifications.
  - (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.

[DUR1825]

32. 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.

[DUR1875]

33. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, Appendix D. Inspection fees are based on the rates contained in Council's current Fees and Charges:-

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal
- (g) Pathways, footways, bikeways - formwork/reinforcement
- (h) Final inspections - on maintenance
- (i) Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures
- (g) Drainage channels
- (h) Final inspection - on maintenance
- (i) Off maintenance

Sewer Pump Station

- (a) Excavation
- (b) Formwork/reinforcement
- (c) Hydraulics
- (d) Mechanical/electrical
- (e) Commissioning - on maintenance
- (f) Off maintenance

Council's role is limited to the above mandatory inspections and does NOT include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR1895]

34. 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]

35. The applicant shall obtain the written approval of Council to the proposed road/street names and be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.

Application for road naming shall be made on Councils Property Service Form and be accompanied by the prescribed fees as tabled in Councils current Revenue Policy - "Fees and Charges".

The application shall also be supported by sufficient detail to demonstrate compliance with Councils Road Naming Policy.

[DUR2035]

36. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction/demolition.

[DUR2185]

37. All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording in accordance with Councils Development Design and Construction Specifications.

[DUR2355]

38. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

39. 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]

40. All waters that are to be discharged from the site shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l.

[DUR2435]

#### **PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

41. 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]

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

A Subdivision Certificate shall NOT be issued unless the Certifying Authority is satisfied provisions pursuant to Section 109J of the EP&A Act, 1979 have been

complied with and the Certifying Authority has sighted Councils contributions sheet and Certificate of Compliance signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Water DSP6:	64.6 ET @ \$11571 per ET	\$747,486.60
South Kingscliff Water Levy:	64.6 ET @ 269 per ET	\$17,377
Sewer Kingscliff:	65 ET @ \$5560 per ET	\$361,400

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

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

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

[PSC0165]

43. Section 94 Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979, a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorized 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 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:

422.5 Trips @ \$1145 per Trips	\$483,763
(\$1145 base rate + \$0 indexation)	

S94 Plan No. 4

Sector7\_4

LCA4 - Casuarina:	\$70,980
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422.5 trips at \$168 per trip

(\$168 base rate + \$0 indexation)

b.	Shirewide Library Facilities:	
	65 ET @ \$792 per ET	\$51,480
	(\$792 base rate + \$0 indexation)	
	S94 Plan No. 11	
c.	Bus Shelters:	
	65 ET @ \$60 per ET	\$3,900
	(\$60 base rate + \$0 indexation)	
	S94 Plan No. 12	
d.	Eviron Cemetery:	
	65 ET @ \$120 per ET	\$7,800
	(\$101 base rate + \$19 indexation)	
	S94 Plan No. 13	
e.	Extensions to Council Administration Offices & Technical Support Facilities	
	65 ET @ \$1772.82 per ET	\$115,233.3
	(\$1759.9 base rate + \$12.92 indexation)	
	S94 Plan No. 18	
f.	Casuarina Beach/Kings Forest Community Facilities:	
	65 ET @ \$2153 per ET	\$139,945
	(\$2153 base rate + \$0 indexation)	
	S94 Plan No. 19	
g.	Casuarina Beach/Kings Forest Open Space:	
	65 ET @ \$1231 per ET	\$80,015
	(\$717 base rate + \$514 indexation)	
	S94 Plan No. 19	
h.	Cycleways:	
	65 ET @ \$451 per ET	\$29,315
	(\$447 base rate + \$4 indexation)	
	S94 Plan No. 22	
i.	Regional Open Space (Casual)	
	65 ET @ \$1042 per ET	\$67,730

(\$1031 base rate + \$11 indexation)

S94 Plan No. 26

j. Regional Open Space (Structured):

65 ET @ \$3656 per ET \$237,640

(\$3619 base rate + \$37 indexation)

S94 Plan No. 26

[PSC0175]

44. Proposed lot 999 shall be dedicated as open space and suitably embellished at no cost to Council in accordance with the approved landscaping plan.

[PSC0195]

45. Prior to the issue of a Subdivision Certificate a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the works (minimum as tabled in Council's fees and charges current at the time of payment) which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

46. Prior to the issue of a Subdivision Certificate, a performance bond equal to 25% of the contract value of the footpath construction works shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths are built on.

Alternatively, the developer may elect to pay a cash contribution to the value of the footpath construction works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.

[PSC0225]

47. Any damage to property (including pavement damage) 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 Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[PSC0725]

48. Prior to the issue of a Subdivision Certificate, Work as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design Specification, D13 - Engineering Plans.

The plans are to be endorsed by a Registered Surveyor OR a Consulting Engineer Certifying that:

- (a) all drainage lines, sewer lines, services and structures are wholly contained within the relevant easement created by the subdivision;
- (b) the plans accurately reflect the Work as Executed.

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed (WAX) plans.

[PSC0735]

49. 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]

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

- (a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.
- (b) Right of carriageway.
- (c) Proposed allotments 42 to 44 are prohibited from gaining access onto Casuarina Way. These allotments are to gain access only from the right of carriageway.
- (d) Roof water from dwellings or structures must be discharged to an infiltration pit sized to accommodate the 3 month average recurrence interval storm.
- (e) Any infiltration pit created on a lot burdened shall be approved by the certifying authority that certifies any construction certificate for any dwelling constructed on a lot burdened and any application to the certifying authority for a construction certificate in respect of a dwelling shall be accompanied by a design for the proposed infiltration pit.
- (f) A restriction to user to show the 7(f) environmental zoning for proposed allotments 1 to 18. No building is permitted in the 7(f) zoning.
- (g) A restriction to user for Lots 59 to 62, 66 and 67 requiring a noise assessment report for any proposed dwelling (two storey) to determine acoustic shell treatments which may be required to achieve internal noise criteria within habitable rooms.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0835]

51. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate.

[PSC0855]

52. Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.



The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.

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

[PSC0885]

53. Prior to the application for a Subdivision Certificate a Compliance Certificate or Certificates shall be obtained from Council OR an accredited certifier for the following:

- (a) Compliance Certificate - Roads
- (b) Compliance Certificate - Water Reticulation
- (c) Compliance Certificate - Sewerage Reticulation
- (d) Compliance Certificate - Sewerage Pump Station
- (e) Compliance Certificate - Drainage

Note:

1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual and Councils Development Design and Construction Specifications.
2. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[PSC0915]

54. The six (6) months Defects Liability Period commences upon the registration of the Plan of Subdivision.

[PSC0925]

55. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of any stormwater pipes and sewerage system installed and to be dedicated to Council including joints and junctions will be required to demonstrate that the standard of the infrastructure is acceptable to Council.

Any defects identified by the inspection are to be repaired in accordance with Councils Development Design and Construction Specification.

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[PSC1065]

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

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

[PSC1115]

57. The production of written evidence from the local telecommunications supply authority certifying that the provision and commissioning of underground telephone supply at the front boundary of the allotment has been completed.

[PSC1165]

58. Electricity

- (a) The production of written evidence from the local electricity supply authority certifying that reticulation and energising of underground electricity (residential and rural residential) has been provided adjacent to the front boundary of each allotment; and
- (b) The reticulation includes the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

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.

[PSC1185]

59. In accordance with the Federal Government's National Broadband Network (NBN) initiatives, the Developer is required (at the Developer's expense) to install a fibre ready, pit and pipe network (including trenching, design and third party certification) to NBN CO's Specifications, to allow for the installation of Fibre To The Home (FTTH) broadband services.

[PSC1205]

60. Prior to the issue of a subdivision certificate a post earthwork surface radiation survey shall be completed by a suitably qualified person and submitted to the satisfaction of the General Manager or his delegate. Should radiation levels exceed background radiation levels, further detailed investigation and validation (including depth investigations) shall be submitted to the satisfaction of the General Manager or his delegate as required.

61. Prior to the issue of a subdivision certificate a 1.8m high acoustic fence shall be provided along the boundary with the Tweed Coast Road, to the satisfaction of the General Manager or his delegate, in accordance with the recommendations of the Traffic Engineering Assessment CRG, 31 August 2011. A validation

statement confirming placement and adequacy of the fence shall be provided from a suitably qualified person.

[PSCNS01]

62. Prior to the issue of a subdivision certificate the sales centre on proposed Lot 37 shall be removed from the site.

[PSCNS02]

63. Prior to the release of a Subdivision Certificate, casual open space is to be embellished consistent with the approved detailed landscape plans.

[PSCNS03]

64. Prior to issue of a Subdivision Certificate, Work as Executed Plans (WAX) must be submitted for all landscaped casual open space. These must show all underground services, irrigation systems and the location of concrete paths, structures, other park infrastructure and garden bed outlines.

The plans are to be certified by a registered surveyor or consulting engineer.

Two categories of WAX plans are to be provided:

- (a) The original approved plan with any variation to this indicated.
- (b) Plan showing only the actual as constructed information,

The plans are to be submitted in the following formats:

- (a) 2 paper copies of the same scale and format as the approved plan.
- (b) A PDF version on CD or an approved medium.

An electronic copy in DWG or DXF format on CD or an approved medium

[PSCNS04]

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

1. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bushfire Protection 2006'.

**154**

#### **AMENDMENT**

**Cr K Milne**

**Cr K Skinner**

**PROPOSED** that Development Application DA11/0444 for a 68 lot subdivision (including 1 open space lot) at Lot 29 DP 1027531 & Lot 30 DP 1027531; Casuarina Way, Casuarina be deferred for a workshop.

The Amendment was **Lost**

**FOR VOTE - Cr K Skinner, Cr K Milne**

**AGAINST VOTE - Cr D Holdom, Cr W Polglase, Cr P Youngblutt, Cr J van Lieshout, Cr B Longland**

The Motion was **Carried** - (Minute No 153 refers)

**FOR VOTE - Cr D Holdom, Cr W Polglase, Cr P Youngblutt, Cr J van Lieshout, Cr B Longland**

**AGAINST VOTE - Cr K Skinner, Cr K Milne**

**13 [PR-CM] Composting Toilets**

**155**

**Cr D Holdom**

**Cr J van Lieshout**

**RESOLVED** that the report on Composting Toilets be received and noted.

The Motion was **Carried**

**FOR VOTE - Cr D Holdom, Cr W Polglase, Cr P Youngblutt, Cr K Skinner, Cr J van Lieshout, Cr B Longland**

**AGAINST VOTE - Cr K Milne**

**14 [PR-CM] Calls for Expressions of Interest to Operate Markets - Kingscliff, Pottsville, Knox Park Murwillumbah and Tweed Heads Recreation Ground**

**156**

**Cr P Youngblutt**

**Cr K Skinner**

**RESOLVED** that Council receives and notes the decision of the Tweed Coast Reserve Trust of Tuesday 20 March 2012 in relation to this matter.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**15 [PR-CM] Release of Restriction on Use - Seaside City Kingscliff**

**157**

**Cr K Skinner**

**Cr P Youngblutt**

**RESOLVED** that:

1. Council approves the release of Restriction on Use seventhly created in DP 1162588 burdening Lots 301-326, 328-337, 339 and 412 in DP 1162588 and Lots 138-143, 145-151, 153-160 and 162-169 in DP1145386; and

2. All necessary documentation be executed under the Common Seal of Council.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**16 [PR-CM] Development Application DA11/0443 for a General Store at Lot 7 DP 790073; No. 440 Kyogle Road, Murwillumbah**

**158**

**Cr P Youngblutt**

**Cr J van Lieshout**

**RESOLVED** That Development Application DA11/0443 for a general store at Lot 7 DP 790073; No. 440 Kyogle Road, Murwillumbah be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 1 of 2 and 2 of 2 prepared by Planit Consulting and dated August 2011, 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. Any wastewater shall be collected and disposed to the satisfaction of the General Manger or his delegate. Wastewater shall not be permitted to enter or discharge to any watercourse or stormwater.

5. A permanent water supply shall be provided with convenient access to hand washing facilities to the satisfaction of the General Manager or his delegate. Hand washing facilities shall be provided with antibacterial hand wash and single use clean hand towels at all times.

[GENNS01]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

6. The developer shall provide (One) 1 parking spaces including parking for the disabled (as required) in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

Full design detail of the proposed parking and manoeuvring areas including integrated landscaping shall be submitted to Tweed Shire Council and approved by the General Manager or his delegate prior to the issue of a construction certificate.

[PCC0065]

7. 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:

25.2 Trips @ \$1317 per Trips \$33,188

(\$1317 base rate + \$0 indexation)

S94 Plan No. 4

Sector9\_4

(b) Extensions to Council Administration Offices

& Technical Support Facilities

0.2167 ET @ \$1772.82 per ET \$384.17

(\$1759.9 base rate + \$12.92 indexation)

S94 Plan No. 18

[PCC0215/PSC0175]

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

[PCC0285]

9. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.

All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

10. A Traffic Control Plan in accordance with AS1742 and the latest version of the RTA publication "Traffic Control at Work Sites" shall be prepared by an RTA accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.

[PCC0865]

11. 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 undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:

- (a) Provision of adequate vehicular access in accordance with Council's "Access to Property" pamphlet, including the following specific work:
- (i) Bitumen sealing of the existing accesses from the road carriageway to the property boundary as per Tweed Shire Councils road works standard S.D.017.
- (b) Demonstrate that delivery vehicles are able to enter and exit in a forward direction.
- (c) A basic right (BAR) turn treatment is required to service the 100kmh speed limit as per Figure 7.5 of Austroads - Guide to Road Design – Part 4A: Unsignalised and Signalised Intersections. The right hand turn treatment is required to have a shoulder and is to be sealed.
- (d) A basic left (BAL) turn treatment is required to service the 100kmh speed limit as per Figure 8.2 of Austroads - Guide to Road Design – Part 4A: Unsignalised and Signalised Intersections. The left hand turn treatment is required to have a shoulder and is to be sealed.

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following: -

- Road works/furnishings
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

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

[PCC1195]

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

13. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to

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

[PCW0005]

14. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved management plans or the like, shall be installed/operated in accordance with those conditions or plans.

[PCW0015]

15. The erection of a building in accordance with a development consent must not be commenced until:

- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
- (b) the person having the benefit of the development consent has:
  - (i) appointed a principal certifying authority for the building work, and
  - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (c) the principal certifying authority has, no later than 2 days before the building work commences:
  - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
  - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
  - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
  - (ii) notified the principal certifying authority of any such appointment, and
  - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

16. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

17. 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]

- 18. 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 to the satisfaction of the Principal Certifying Authority.

[PCW0985]

### **DURING CONSTRUCTION**

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

[DUR0005]

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

[DUR0015]

- 21. 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]

- 22. 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]

- 23. 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]

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

[DUR0815]

- 25. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council General Manager or his delegate.

[DUR0985]

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

[DUR0995]

27. 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]

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

[DUR1025]

29. All shelving, benches, fittings and furniture on which appliances and utensils are positioned within the premises must be of durable, smooth, impervious material capable of being easily cleaned.

[DUR1605]

30. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

31. The proponent must not undertake any work within the public road reserve without giving Council's Engineering & Operations Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.

[DUR1845]

32. 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 any use or occupation of the buildings.

[DUR1875]

33. During construction, a "satisfactory inspection report" is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR1925]

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

[DUR2205]

35. The proponent shall comply with all requirements tabled within any approval issued under Section 68 of the Local Government Act.

[DUR2625]

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

36. 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]

37. 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]

38. 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]

39. The proprietor of the food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations by completing the "Notify a Food Business" form under the NAFSIS Heading on the following website [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au) or alternatively by contacting the NSW Food Authority on 1300650124.

[POC0625]

40. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 138 of the Roads Act 1993.

[POC0745]

41. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining works in accordance with Councils Development Design and Construction Specifications.

[POC0755]

42. Prior to the issue of an Occupation Certificate, a certificate of practical completion shall be obtained from Council's General Manager or his delegate for all works required under Section 68 of the Local Government Act.

[POCNS01]

43. 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]

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

- \* 8.00am to 11.00am and 2.30pm to 5.30pm - Mondays to Saturdays
- \* 8.00am to 5.30pm Public Holidays
- \* No operations are to be carried out on Sundays

[USE0185]

45. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act* 2003, FSANZ Food Safety Standards and any other requirements of

Councils Environmental health Officer included in this approval to the satisfaction of the General Manager or his delegate.

[USE0835]

46. The premises shall be maintained in a clean and tidy manner.

[USE0965]

47. The premise shall be utilised for the sale of whole fruit and vegetables only to the satisfaction of the General Manager or his delegate. Food processing, or handling of potentially hazardous food, is not permitted.

48. The storage of food is not permitted unless the structure is made vermin proof to the satisfaction of the General Manager or his delegate.

[USENS01]

The Motion was **Carried**

***FOR VOTE - Unanimous***

**17 [PR-CM] Development Application DA10/0671 to Relocate an Existing Dwelling and Construct a Child Care Centre at Lot 2 DP 1122541, No. 26 Coronation Avenue, Pottsville**

**159**

**Cr D Holdom**

**Cr B Longland**

**RESOLVED** that Development Application DA10/0671 to relocate an existing dwelling and construct a child care centre at Lot 2 DP 1122541, No. 26 Coronation Avenue, Pottsville be refused for the following reasons:

1. The proposed Child Care Centre is unacceptable in the location due to noise impacts.
2. The proposal is contrary to State Environmental Planning Policy No. 55 (SEPP 55) as an assessment of contaminated lands has not been undertaken by the applicant.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**18 [PR-CM] Development Application DA10/0411 for a Boundary Adjustment at Lot 11 DP 1054638 & Lot 12 DP 1054638; No. 51 Palmers Road, Terragon**

**160**

**Cr K Skinner**

**Cr P Youngblutt**

**RESOLVED** that Development Application DA10/0411 for a boundary adjustment at Lot 11 DP 1054638 & Lot 12 DP 1054638; No. 51 Palmers Road, Terragon be approved subject to the following conditions:

**"DEFERRED COMMENCEMENT"**

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within 12 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. Council shall be supplied with evidence of registration of the Plan of Subdivision associated with Development Consent DA09/0034 with the Land and Property Management Authority (formerly the Lands Titles Office).

**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. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Titled "Plan of Proposed Subdivision – Boundary Alteration Between Lot 11 & 12 DP 1054638 Palmers Road, Terragon", Revision C prepared by Brown and Hann and dated 10.02.10, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0125]

3. The applicant is advised that boundary adjustment associated with DA10/0411 will have the effect of extinguishing the existing dwelling entitlement on existing Lot 12/proposed Lot 51 and the existing dwelling shall have to rely on existing use rights within proposed Lot 51.

[GENNS01]

4. No clearing of protected or threatened vegetation shall be undertaken on the site.

[GENNS02]

**DURING CONSTRUCTION**

5. 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]

## USE

6. 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]

## PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

7. 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]

8. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0835]

9. Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.

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

[PSC0885]

10. Prior to the issue of a Subdivision Certificate, a properly dimensioned plan shall be lodged with Council showing the relative position of existing fences, road formation and boundaries. Any encroaching road boundary fence 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 following submission of the plan shall be dedicated at no cost to Council.

[PSC0945]

11. Prior to the issue of a Subdivision Certificate, an approved access servicing proposed Lot 50 shall be bitumen sealed from the existing bitumen edge of Palmers Road to the property boundary, in accordance with Tweed Shire Council's Development Control Plan, Part A5 - Subdivision Manual and Council's "Driveway Access To Property – Part 1 – Design Specification".

[PSCNS01]

12. Prior to the issue of Subdivision Certificate the applicant shall lodge an application to operate the existing OSMS facility on proposed Lot 51 under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with approval.

[PSCNS02]

13. A roof catchment water supply source shall be provided for domestic purposes where a Council reticulated supply is unavailable. Any domestic water supply roof collection system should be fitted with a first flush device. 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. Details of the intended method of water storage are to be submitted to Council's Development Assessment Unit for approval, prior to the issue of Subdivision Certificate.

[PSCNS03]

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

1. At the issue of subdivision certificate and in perpetuity, the land surrounding the existing dwelling(s) on proposed Lot 51, to a distance of 50 metres or to the property boundary 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'.
2. Water, electricity and gas are to comply with the following requirements of Section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
  - A hardened ground surface for truck access is to be supplied up to and within 4m of the water source.
  - A 65mm metal Storz outlet with a gate or ball valve shall be provided.
  - In recognition that no reticulated water supply exists, a 20 000 litre water supply shall be provided for fire fighting purposes.
3. Property access roads shall comply with section 4.1.3(2) of 'Planning for Bush Fire Protection 2006'.
4. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**19 [PR-CM] Results of the Department of Planning Local Development Performance Monitoring Report 2010/11**

**161**

**Cr D Holdom**

**Cr P Youngblutt**

**RESOLVED** that the Results of the Department of Planning and Infrastructure's Local Development Performance Monitoring Report 2010/11 be received and noted.

The Motion was **Carried**

***FOR VOTE - Unanimous***

