



**TWEED**  
SHIRE COUNCIL

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

**Councillors:** M Armstrong (Deputy Mayor)  
G Bagnall  
C Byrne  
K Milne  
W Polglase  
P Youngblutt

# Minutes

## Planning and Regulation Reports

### **Ordinary Council Meeting**

### **Thursday 25 October 2012**

held at Murwillumbah Cultural and Civic Centre  
commencing at 6.00pm

### **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.

The Meeting commenced at 6.05pm.

## **IN ATTENDANCE**

Cr B Longland (Mayor), Cr M Armstrong (Deputy Mayor), Cr G Bagnall, Cr C Byrne, Cr K Milne, Cr W Polglase and Cr P Youngblutt.

Also present were Mr David Keenan (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).

## **ABORIGINAL STATEMENT**

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

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

## **PRAYER**

The meeting opened with a Prayer by Council's Chaplain, Rev Chris Lindsay, Murwillumbah Presbyterian Church:

*"We come before you Lord God and Creator.*

*Your holy word the Psalms acknowledge your creating power.*

*The earth is the Lord's, and everything in it,  
the world, and all who live in it;  
for he founded it on the seas  
and established it on the waters.*

*We thank you that you don't withhold the blessings available to us in this world. You give us the very breathe of life and provide us with an earth that richly sustains all life. You grant to us power to work and leisure to rest.*

*We thank you that you watch over those who we appoint to exercise good government on our behalf. Help them not to pursue power for personal gain but to use their strength and ability for the welfare of our community and environment.*

*This is not an easy task. So we ask for wisdom from you for the members of this chamber. Help them chart a course between competing interests. Help govern in such a way that allows benefits to flow broadly and deeply to everyone in our local community. Help them govern the affairs of the Tweed Shire with equity and justice.*

*For the word tells us.*

*The righteous care about justice for the poor,  
but the wicked have no such concern.*

*Make us a community that seeks the welfare of ALL not just the profit of some.*

*In the name of Jesus Christ, we bring these petitions before you. Amen"*

## **CONFIRMATION OF MINUTES**

### **1 [CONMIN] Confirmation of the Minutes of the Ordinary and Council Meetings held Tuesday 25 September 2012**

**591**

**Cr P Youngblutt  
Cr K Milne**

**RESOLVED** that the Minutes of the Ordinary and Confidential Council Meetings held Tuesday 25 September 2012 be adopted as a true and accurate record of proceedings of that meeting.

The Motion was **Carried**

**FOR VOTE - Unanimous**

## **APOLOGIES**

Nil.

## **DISCLOSURE OF INTEREST**

Cr W Polglase declared a pecuniary interest in Item 15 [PR-CM] Development Application DA11/0456 for Additions to Existing Manufactured Home Estate including 32 New Manufactured Home Sites, Recreation Area, Visitor Parking and Extension of Internal Road and Revegetation Work at Lot 193 DP 1014329 No. 34 Monarch Drive, Kingscliff. The nature of the interest is that Cr Polglase is employed by the applicant.

Cr C Byrne declared a non-significant, non-pecuniary interest in Item 49 [NOM-Cr Polglase] Proposed Police Command Centre, Kingscliff. The nature of the interest is that she is a member of the Action Committee.

Cr K Milne declared a pecuniary interest in Item 12 [PR-CM] Development Application DA03/0476.02 for an Amendment to Development Consent DA03/0476 for the Establishment of an Art Gallery/Coffee Shop to include a Refreshment Room and Extend Trading Hours on Saturdays including the Option of Live Music at Lot 2 DP 575934 No 17 Bambery Street, Fingal Head. The nature of the interest is that Cr Milne is the sister of the applicant.

Cr G Bagnall declared a pecuniary interest in Item 6 [PR-CM] Compliance Issues - Unauthorised Works in Outdoor Dining Footpath Blister Area at Nos. 60-62 Murwillumbah Street, Murwillumbah, Courthouse Hotel. The nature of the interest is that Cr Bagnall has a competitive business in the same industry.

## **ORDINARY ITEMS FOR CONSIDERATION**

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

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

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

**594**

**Cr W Polglase  
Cr P Youngblutt**

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

The Motion was **Carried**

***FOR VOTE - Unanimous***

#### **6 [PR-CM] Compliance Issues - Unauthorised Works in Outdoor Dining Footpath Blister Area at Nos. 60 - 62 Murwillumbah Street, Murwillumbah, Courthouse Hotel**

Cr G Bagnall declared a pecuniary interest in this item, left the Chamber at 06:15 PM and took no part in the discussion or voting. The nature of the interest is that Cr Bagnall has a competitive business in the same industry.

**595**

**Cr P Youngblutt  
Cr M Armstrong**

**RESOLVED** that Council, in respect of the unauthorised weather protection structures installed in association with the outdoor footpath dining and road blister area of the Courthouse Hotel, located on the premises Nos. 60-62 Murwillumbah Street, Murwillumbah supports that the officers bring back a further report to Council on a suggested policy framework for developments within the footpaths and road reserves of the business centres within the Tweed Shire.

The Motion was **Carried**

**FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong**

**AGAINST VOTE - Cr K Milne, Cr B Longland**

**ABSENT. DID NOT VOTE - Cr G Bagnall**

Cr G Bagnall has returned from temporary absence at 06:21 PM

**7 [PR-CM] Draft Development Control Plan (DCP) Section A1 - Residential and Tourist Development Code**

**596**

**Cr W Polglase**

**Cr P Youngblutt**

**PROPOSED** that Council endorses:

1. The draft *Tweed Development Control Plan Section A1 - Residential and Tourist Code Part A – Single Dwellings, Dual Occupancy, Secondary Dwellings, Alterations and Additions and Ancillary Development and Part B – Town Houses and Row Houses* be placed on public exhibition for a minimum period of 28 days; and
2. Following public exhibition a further report addressing all submissions is to be submitted to Council.

**AMENDMENT 1**

**597**

**Cr K Milne**

**Cr G Bagnall**

**PROPOSED** that Council endorses:

1. The draft *Tweed Development Control Plan Section A1 - Residential and Tourist Code Part A – Single Dwellings, Dual Occupancy, Secondary Dwellings, Alterations and Additions and Ancillary Development and Part B – Town Houses and Row Houses* be placed on public exhibition for a minimum period of 60 days and community presentations be provided; and
2. Following public exhibition a further report addressing all submissions is to be submitted to Council.

Amendment 1 was **Lost**

**FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall**

**AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr B Longland**

598

**AMENDMENT 2**

**Cr K Milne  
Cr G Bagnall**

**RESOLVED** that Council endorses:

1. The draft *Tweed Development Control Plan Section A1 - Residential and Tourist Code Part A – Single Dwellings, Dual Occupancy, Secondary Dwellings, Alterations and Additions and Ancillary Development and Part B – Town Houses and Row Houses* be placed on public exhibition for a minimum period of 28 days;
2. Following public exhibition a further report addressing all submissions is to be submitted to Council; and
3. Community consultations include a series of PowerPoint presentations by Council staff.

Amendment 2 was **Carried**

**FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland  
AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne**

Amendment 2 on becoming the Motion was **Carried** - (Minute No 598 refers)

**FOR VOTE - Cr C Byrne, Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland  
AGAINST VOTE - Cr P Youngblutt, Cr W Polglase**

- 8 [PR-CM] **Tweed Development Control Plan 2008 - Section B24 and DA09/0701 for a 300 Lot Residential Subdivision (Department of Planning Application MP09\_0166) at Lot 40, 43 DP 254416; Lot 2 DP 778727; Lot 1 DP 781687; Lot 1 DP 781697; Lot 1 DP 304649; Lot**

599

**Cr K Milne  
Cr G Bagnall**

**RESOLVED** That Council, in respect of Section B24 of the Tweed Development Control Plan 2008, Area E Urban Release Development Code:

1. Endorses the Practice Note provided within Attachment 3; and
2. Reviews the cut and fill controls within Section B24 of the Tweed Development Control Plan 2008 applicable to residential development within the upcoming Policy Maintenance under the adopted Planning Reform Unit Work Program; and
3. Informs the applicant that should they still wish to pursue a review of Section B24 of the Tweed Development Control Plan 2008 that any review would be subject to

Council's established Fees and Charges and potentially a costs and expenses agreement for the planning and design assessment to be undertaken externally.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**9 [PR-CM] Planning Proposal PP11/0004 Draft Local Environmental Plan Amendment No. 96 Tweed City Shopping Centre**

**600**

**Cr P Youngblutt  
Cr W Polglase**

**RESOLVED** that Planning Proposal PP11/0004 (Local Environmental Plan Amendment No. 96) for Lots 22 DP 23659; No. 24 Kirkwood Road; Lot 21 DP 23659; No. 26 Kirkwood Road; Lot 20 DP 23659; No. 28 Kirkwood Road; Lot 19 DP 23659; No. 30 Kirkwood Road; Lot 6 DP 1119624; No. 38 Minjungbal Drive; Lot 13 DP 23659; No. 42 Kirkwood Road; Lot 12 DP 23659; No. 44 Kirkwood Road; Lot 11 DP 23659; No. 46 Kirkwood Road; Lot 2 DP 804871; No. 48-50 Kirkwood Road; Lot 8 DP 23659; No. 52 Kirkwood Road; Lot 7 DP23659; No. 54 Kirkwood Road; Lot 6 DP23659; No. 56 Kirkwood Road; Lot 1 DP 781517; No. 58 Minjungbal Drive; Lot 2 DP 781518; No. 60 Minjungbal Drive; Lot 1 DP 524806; No. 62 Minjungbal Drive; Lot 2 DP 524806; No. 64 Minjungbal Drive, Tweed Heads South, be referred to the Minister under Section 59 of the Environmental Planning and Assessment Act 1979, for the plan to be made.

**AMENDMENT 1**

**601**

**Cr G Bagnall  
Cr K Milne**

**PROPOSED** that Council defers the Planning Proposal PP11/0004 (Local Environmental Plan Amendment No 96) for a workshop.

Amendment 1 was **Lost**

**FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall**

**AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr B Longland**

**AMENDMENT 2**

**602**

**Cr K Milne  
Cr G Bagnall**

**PROPOSED** that Council approves the Planning Proposal as previously exhibited (not including 54 and 56 Kirkwood Road, Tweed Heads South).



Amendment 2 was **Lost**

**FOR VOTE - Cr K Milne, Cr G Bagnall**

**AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr B Longland**

The Motion was **Carried** (Minute No 600 refers)

**FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr B Longland**

**AGAINST VOTE - Cr K Milne, Cr G Bagnall**

**10 [PR-CM] Tweed Development Control Plan Section B15 - Seabreeze Estate, Pottsville**

**603**

**Cr K Milne**

**Cr C Byrne**

**PROPOSED** that Council rejects the proponent's request to amend the Tweed Development Control Plan Section B15 - Seabreeze Estate, Pottsville, thereby retaining the existing Section B15 of the Tweed Development Control Plan.

**AMENDMENT**

**604**

**Cr K Milne**

**Cr G Bagnall**

**RESOLVED** that Council:

1. Rejects the proponent's request to amend the Tweed Development Control Plan Section B15 - Seabreeze Estate, Pottsville, thereby retaining the existing Section B15 of the Tweed Development Control Plan.
2. Requests the Department of Education and Communities to undertake an updated needs analysis for the high school using the latest census figures.

The Amendment was **Carried**

**FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland**

**AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne**

Amendment on becoming the Motion was **Carried** - (Minute No 604 refers)

**FOR VOTE - Cr C Byrne, Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland**

**AGAINST VOTE - Cr P Youngblutt, Cr W Polglase**

**11 [PR-CM] Draft Tweed Local Environmental Plan 2012**

**605**

**Cr W Polglase  
Cr P Youngblutt**

**PROPOSED** that Council endorses:

1. The draft Tweed Local Environmental Plan 2012 be placed on public exhibition for a minimum period of 28 days;
2. The supplementary draft Tweed Development Control Plan (DCP) Section A16 *Trees and Vegetation Preservation Code* be placed on public exhibition concurrently with the draft Tweed Local Environmental Plan 2012; and
3. Following public exhibition a further report addressing all submissions is to be submitted to Council.

**AMENDMENT**

**606**

**Cr G Bagnall  
Cr K Milne**

**RESOLVED** that Council endorses:

1. The draft Tweed Local Environmental Plan 2012 be placed on public exhibition for a minimum period of 60 days;
2. The supplementary draft Tweed Development Control Plan (DCP) Section A16 *Trees and Vegetation Preservation Code* be placed on public exhibition concurrently with the draft Tweed Local Environmental Plan 2012; and
3. Following public exhibition a further report addressing all submissions is to be submitted to Council.
4. A series of PowerPoint presentations being included in the community consultations.

The Amendment was **Carried**

**FOR VOTE - Cr C Byrne, Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland  
AGAINST VOTE - Cr P Youngblutt, Cr W Polglase**

The Amendment on becoming the Motion was **Carried** - (Minute No 606 refers)

**FOR VOTE - Cr C Byrne, Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland  
AGAINST VOTE - Cr P Youngblutt, Cr W Polglase**

**12 [PR-CM] Development Application DA03/0476.02 for an Amendment to Development Consent DA03/0476 for the Establishment of an Art Gallery/Coffee Shop to include a Refreshment Room & Extend Trading Hours on Saturdays including the Option of Live Music at Lot**

Cr K Milne declared a pecuniary interest in this item, left the Chamber at 07:10 PM and took no part in the discussion or voting. The nature of the interest is that Cr Milne is the sister of the applicant.

**607**

**Cr B Longland  
Cr M Armstrong**

**RESOLVED** that:

- A. Council, in respect of Development Application DA03/0476.02 for an amendment to Development Consent DA03/0476 for the establishment of an art gallery/coffee shop to include a refreshment room and extend trading hours on Saturdays including the option of live music at Lot 2 DP 575934 No. 17 Bambery Street, Fingal Head, endorse the following:
1. The applicant be requested to withdraw DA03/0476.02 within fourteen days of the date of this meeting, and that any further Section 96 application to modify the terms of the current DA consent for this site in terms of the current shortfall of required on site car parking not be determined until the proposed Section 94 Plan identified in Point 2 is adopted by Council and made effective under the relevant provisions of the Act;
  2. Upon withdrawal of DA03/0476.02 a draft Section 94 Plan be prepared applying to those parts of Fingal Head that are currently not included in Tweed Contribution Plan No. 23, and that it be presented at a Councillors Workshop, and reported to a subsequent Council Meeting for determination to proceed to public exhibition; and
  3. If DA03/0476.02 is not withdrawn in accordance with Point 1 above, Development Application DA03/0476.02 for an amendment to Development Consent DA03/0476 for the establishment of an art gallery/coffee shop to include a refreshment room and extend trading hours on Saturdays including the option of live music at Lot 2 DP 575934; No. 17 Bambery Street, Fingal Head be refused for the following reasons:
    1. The proposed modification is not considered to be consistent with the provisions of Clause 8(1)(c) of Tweed Local Environmental Plan 2000, in that the deletion of onsite parking provisions would have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of Tweed as a whole;
    2. The proposed modification is not considered to be in accordance with the provisions of Council's Development Control Plan Section A2 – Site Access

and Parking Code, in that onsite parking provisions are not being maintained;

3. The proposed modifications are considered not to be in the public interest, with regard to the precedent the proposal would set if parking requirements were removed;
4. The proposed modification to extend trading hours is not supported, given the non-compliance with existing approved trading hours; and
5. The proposed modification to use the approved parking area for alternate uses is not supported, in that the area is required for on-site car parking purposes.

B. Upon withdrawal or refusal of the Section 96 amended application the applicant be formally advised in writing that:

- The development must comply with existing approved conditions of consent;
- A Section 138 application must be submitted to Council for approval within 14 days of the date of the written notification in relation to all structures within the road reserve; and
- A development application must be submitted within 28 days of the date of the written notification in relation to all signage associated with the development where statutorily required.

The Motion was **Carried**

**FOR VOTE - Voting - Unanimous**  
**ABSENT. DID NOT VOTE - Cr K Milne**

Cr K Milne has returned from temporary absence at 07:23 PM

**13 [PR-CM] Development Application DA11/0527 for an attached dual occupancy at Lot 21 DP 1124438; No. 27 Charles Street, Tweed Heads**

**608**

**Cr W Polglase**  
**Cr P Youngblutt**

**RESOLVED** that Development Application DA11/0527 for an attached dual occupancy at Lot 21 DP 1124438; No. 27 Charles Street, Tweed Heads 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:
  - DA 1.02 Revision 1 (Site Plan);
  - DA 2.01 Revision 1 (Level 1 Floor Plan);

- DA 2.02 Revision 1 (Level 2 Floor Plan);
- DA 2.03 (Level 3 Floor Plan);
- DA 2.04 (Roof Plan);
- DA 3.02 Revision 1 (East Elevation, West Elevation);
- DA 4.01 Revision 1 (Section A-A, Section D-D);
- DA 4.02 Revision 1 (Section C-C, Section B-B);
- DA 6.01 (Impervious area, DSZ & Landscape Concept Plan);
- DA 3.01 Revision 1 (North Elevation, South Elevation).

All prepared by Pat Twohill Designs and dated 24 July 2012, 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. A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material.

Should adjustments be required to the sewer manhole, then application shall be made to Council's Community and Natural Resources Division for approval of such works.

[GEN0155]

5. A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material.

Should adjustments be required to the sewer manhole, then application shall be made to Council's Community and Natural Resources Division for approval of such works.

[GEN0155]

6. The development is to be carried out in accordance with Council's Development Design and Construction Specifications.

[GEN0265]

7. The Deep Soil Zone (DSZ) identified on approved plans shall not incorporate any hard impervious surfaces, unless otherwise approved by the General Manager or his delegate.

[GEN0285]

8. All minor elements (such as air conditioning units, aerials, satellite dishes and the like) are to comply with the controls contained within Section A1 of the Tweed Development Control Plan 2008, 'Minor Elements'.

[GENNS01]

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

9. 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, Tumbulgam Road, Murwillumbah and Brett Street, Tweed Heads.

(a) Tweed Road Contribution Plan:

1.3 Trips @ \$822 per Trips \$1069  
(\$815 base rate + \$7 indexation)  
S94 Plan No. 4  
Sector1\_4

(b) Open Space (Casual):

0.75 ET @ \$526 per ET \$395  
(\$502 base rate + \$24 indexation)  
S94 Plan No. 5

(c) Open Space (Structured):

0.75 ET @ \$602 per ET \$452  
(\$575 base rate + \$27 indexation)  
S94 Plan No. 5

(d) Shirewide Library Facilities:

0.75 ET @ \$816 per ET \$612  
(\$792 base rate + \$24 indexation)  
S94 Plan No. 11

(e) Bus Shelters:

0.75 ET @ \$62 per ET \$47  
(\$60 base rate + \$2 indexation)  
S94 Plan No. 12

(f) Eviron Cemetery:

0.75 ET @ \$121 per ET \$91  
(\$101 base rate + \$20 indexation)  
S94 Plan No. 13

- (g) Community Facilities (Tweed Coast - North)  
 0.75 ET @ \$1352 per ET \$1014  
 (\$1305.6 base rate + \$46.4 indexation)  
 S94 Plan No. 15
- (h) Extensions to Council Administration Offices  
 & Technical Support Facilities  
 0.75 ET @ \$1812.62 per ET \$1359.47  
 (\$1759.9 base rate + \$52.72 indexation)  
 S94 Plan No. 18
- (i) Cycleways:  
 0.75 ET @ \$460 per ET \$345  
 (\$447 base rate + \$13 indexation)  
 S94 Plan No. 22
- (j) Regional Open Space (Casual)  
 0.75 ET @ \$1064 per ET \$798  
 (\$1031 base rate + \$33 indexation)  
 S94 Plan No. 26
- (k) Regional Open Space (Structured):  
 0.75 ET @ \$3730 per ET \$2798  
 (\$3619 base rate + \$111 indexation)  
 S94 Plan No. 26

[PCC0215]

10. 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 "Contribution Sheet" and a "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 DSP4: 1 ET @ \$12150 per ET \$12150  
 Sewer Banora: 1 ET @ \$5838 per ET \$5838

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.

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

[PCC0265]

11. 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]

12. A detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species is to be submitted to and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate. The plan of landscaping shall provide details of landscaping at the front of the lot and shall demonstrate planting that reduces the dominance of the garage doors, accentuates legibility between the two dwellings and shall include tree species and shrubs of varying heights and colours. The plan is also to include details of proposed retaining walls and fences, particularly at the front of the lot, and will incorporate areas of landscaping to soften the appearance of the proposed garage doors. Further, the plan is to demonstrate details of the interface between the subject site and the public domain (road reserve) and is to include existing and finished ground levels linked to Australian Height Datum. The development shall be carried out in accordance with the submitted and approved details and shall thereafter be retained as such.

[PCC0585]

13. 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]

14. 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:

- Provision of a vehicular access in accordance with Section A2 - Site Access and Parking Code of Council's consolidated Tweed Development Control Plan and Council's 'Driveway Access to Property - Part 1' Design Specification June 2004.

The access shall provide the required 2m x 2m 'sight triangle' envelope.

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

- Stormwater drainage
- Water and sewerage works
- Sediment and erosion control plans



- Location of all services/conduits
- Traffic control plan

[PCC0895]

15. Details from a Structural Engineer are to be submitted to the Principal Certifying Authority for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the sewer main or other underground infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate.

[PCC0935]

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

[PCC0945]

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

- (a) The Construction Certificate Application 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) Specific Requirements to be detailed within the Construction Certificate application include:
  - Shake down area shall be installed within the property, immediately prior to any vehicle entering or exiting the site prior to any earthworks being undertaken.
  - Runoff from the driveway must be treated to remove oil and sediment contaminants prior to discharge to the public realm. All permanent stormwater treatment devices must be sized accordingly to Council's *Development Design Specification D7 - Stormwater Quality*, Section D7.12. Engineering details of the proposed devices of the proposed devices, including maintenance schedules, shall be submitted with a s68 Stormwater Application for approval prior to issue of a Construction Certificate.
  - Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly.

[PCC1105]

18. Disposal of stormwater by means of infiltration devices shall be carried out in accordance with Section D7.9 of Tweed Shire Councils *Development Design and Construction Specification - Stormwater Quality*.

[PCC1125]

19. 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]

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

[PCC1195]

21. A single dwelling or group of up to three attached or detached dwellings, having a Building Code classification of 1a, must be connected by means of a single water service pipe each of which is connected to an individual Council water meter to allow individual metering. Application for the meters shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

[PCC1305]

22. Stormwater management measures and devices shall be provided in general accordance with Cozens Regan Williams Prove Drawing No. Sk.2 (Issue A, dated 09/11), except where varied by these conditions of consent. Engineering details of the stormwater management system shall be submitted with a Section 68 Stormwater Application for Council approval prior to the issue of a Construction Certificate.

[PCCNS01]

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

[PCCNS02]

24. Prior to the issue of a Construction Certificate the proponent shall submit a detailed plan (including but not limited to colour elevations and a coloured 3 dimensional street view) that includes a material and colour scheme for the dual occupancy development to be approved by the General Manager or his delegate. This plan may include, but not be limited to, the use of materials that are complimentary to the surrounding landscape (i.e. timber, stone, metal) and colours that provide visual depth to the development. The development shall be carried out in accordance with the submitted and approved details and shall thereafter be retained as such.

[PCCNS02]

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

25. 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]

26. 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
    - (i) 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]

27. 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]

28. 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]

29. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:
- (a) a standard flushing toilet connected to a public sewer, or
  - (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

30. 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]

31. Prior to start of works the PCA is to be provided with a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and be supported by Geotechnical assessment of the founding material.

[PCW0745]

32. 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 any 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]

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

[PCW1065]

### **DURING CONSTRUCTION**

34. 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]

35. 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]

36. 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]

37. 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]

38. 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]

39. 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]

40. 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 Occupational Health and Safety Regulation 2001.

[DUR0415]

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

[DUR0815]

42. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan Part A1 to the satisfaction of the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0835]

43. 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]

44. 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 Occupation Certificate.

[DUR0995]

45. 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]

46. 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]

47. 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]

48. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.

[DUR1905]

49. 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]

50. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation/Subdivision Certificate.

[DUR1955]

51. During construction, a “satisfactory inspection report” is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR2445]

52. 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]

53. 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 NSW Code of Practice for Plumbing and Drainage.

[DUR2495]

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

[DUR2505]

55. 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]

56. 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:-

- \* 43.5°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]

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

[DUR2625]

58. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.

[DURNS01]

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

59. 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]

60. 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]

61. Prior to the issue of an occupation certificate,

- (a) Certification of termite protection methods performed by the person carrying out the works is to be submitted to the PCA; and
- (b) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
  - (i) the method of protection; and
  - (ii) the date of installation of the system; and
  - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
  - (iv) the need to maintain and inspect the system on a regular basis.

[POC0235]

62. 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]

63. 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]

64. Submission to the Principal Certifying Authority, Certification for the stability of any retaining structures in excess of 1.2m erected on the site by a suitably qualified structural engineer.

[POC0815]

65. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council. Written approval from Councils General Manager or his delegate must be issued prior to the issue of an Occupation Certificate.

[POC0865]



66. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

67. 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]

68. 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]

## USE

69. 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]

70. 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]

## Section 79BA of the 'Environmental Planning and Assessment Act 1979'

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

72. In recognition that the dual occupancy 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 Australian Standard AS/NZS 1596:2008: '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.

73. New construction shall comply with Sections 3 and 6 (BAL 19) 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'.

74. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

## **AMENDMENT**

**609**

**Cr K Milne  
Cr G Bagnall**

**PROPOSED** that Council defers Development Application DA11/0527 for an attached dual occupancy at Lot 21 DP 1124438, No. 27 Charles Street, Tweed Heads for a workshop.

The Amendment was **Lost**

**FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall**

**AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr B Longland**

The Motion was **Carried** (Minute No 608 refers)

**FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr B Longland**

**AGAINST VOTE - Cr K Milne, Cr G Bagnall**

- 14 [PR-CM] Development Application DA12/0215 for a Change of Use to Daytime Respite Care Centre with Associated Signage, Car Parking and Landscaping at Lot 23 DP 8100 No. 9 Boyd Street, Tweed Heads**

**610**

**Cr C Byrne  
Cr P Youngblutt**

**RESOLVED** that Development Application DA12/0215 for a change of use to daytime respite care centre with associated signage, car parking and landscaping at Lot 23 DP 8100 No. 9 Boyd Street, Tweed Heads be approved subject to the following conditions:

### **GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and:
  - Plan No. 1417D Amendment 1 Sheet 1 (Site Plan) as amended in red, prepared by Parameter Designs and dated 8 August 2012
  - Plan No. 1417D Amendment 1 Sheet 3 (Street Elevation; Sign Plan; Sign Elevation; Symbol Plan; Symbol Elevation) prepared by Parameter Designs and dated 8 August 2012
  - Plan No. 1417D Amendment 1 Sheet 5 (Proposed Floor Plan) prepared by Parameter Designs and dated 8 August 2012
  - Plan No. 1417D Amendment 1 Sheet 6 (Elevations) prepared by Parameter Designs and dated 8 August 2012

except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0015]

3. Additional advertising structures/signs to be the subject of a separate development application (where statutorily required).

[GEN0065]

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

[GEN0115]

5. 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]

6. 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.

[GEN0245]

7. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.

[GEN0265]

8. The approved signage and symbol are not illuminated and do not include moving graphics or signage elements that flash, flicker or are animated in any way.

[GENNS01]

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

9. The developer shall provide six (6) 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. The disabled car park shall be designed in accordance with Australian Standard AS2890.6.

The developer shall provide two (2) bicycle parks in accordance with Australian Standard AS2890.3.

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]

10. 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:

2.86 Trips @ \$822 per Trips \$2351

(\$815 base rate + \$7 indexation)

S94 Plan No. 4

Sector1\_4

[PCC0215]

11. 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 "Contribution Sheet" and a "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 DSP4: 0.2 ET @ \$12150 per ET \$2430

Sewer Banora: 1 ET @ \$5838 per ET \$5838

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.

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

[PCC0265]

12. 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]

13. A detailed plan of landscaping generally in accordance with amended Landscaping Concept Plan Issue B (prepared by Bizscapes and dated May 2012) shall be submitted to Council and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate:
- Incorporating the two mature fig trees at the front of the site, and
  - Indicating consistency with approved Site Plan (Plan No. 1417D Amendment 1 Sheet 1, as amended in red, prepared by Parameter Designs and dated 8 August 2012).

[PCC0585]

14. Details of the kitchen exhaust system are to be provided and approved prior to release of the Construction Certificate if required. Such details are to include the location of discharge to the air, capture velocity, size and hood and angle of filters. The system shall comply with AS1668.2 - Ventilation Requirements.

[PCC0735]

15. 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 Council's Development Design and Construction Specifications for the following required works:
- (a) Provision for widening the existing access "splay" in accordance with Section A2 - Site Access and Parking Code of Council's consolidated Tweed Development Control Plan and Council's Driveway Access to Property - Part 1 Design Specification June 2004.
  - (b) Provision for a concrete footpath 1.2 metres wide and 100 millimetres thick to be constructed on a compacted base along the entire frontage of the site in accordance with Council's Development Design and Construction Specifications and Standard Drawing SD013.

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

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

[PCC0895]

16. 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]

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. Prior to the issue of a construction certificate, plans drawn to a scale of 1:50 detailing the following with regards to all food related areas shall be provided to Council for assessment and approval, accompanied by a completed Application for Approval of Food Premise Fitout and the adopted fee in Council's Fees and Charges. Evidence of the plans being approved shall be provided prior to release of the construction certificate.

- a. Floor plan
- b. Layout of kitchen showing all equipment including separate hand basin
- c. All internal finish details including floors, wall, ceiling and lighting
- d. Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required.

[PCCNS01]

#### **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
- (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]

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. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.

[PCW0835]

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 any erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

[PCW0985]

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

[PCW1065]

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## DURING CONSTRUCTION

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

[DUR0005]

28. 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]

29. The provision of 6 off street car parking spaces and 2 bicycle spaces including parking for the disabled where applicable. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.

[DUR0085]

30. 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]

31. 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]

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

(a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.

(b) The chute shall be located in a position approved by the Principal Certifying Authority.



- (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.

[DUR0385]

34. 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]

35. 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]

36. 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 Occupational Health and Safety Regulation 2001.

[DUR0415]

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, Occupational Health and Safety Regulation 2001.

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. 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]

39. 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]

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

[DUR1015]

41. 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]

42. Landscaping of the site shall be carried out in accordance with the approved landscaping plan.

[DUR1045]

43. 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]

44. All materials used in the building must comply with the smoke developed and spread of flame indices specified in Specification C1.10 of the Building Code of Australia.

Note: Many materials including some timbers such as western red cedar do not comply and it is the applicant's responsibility to ensure that all materials to be used are within the criteria specified.

[DUR1275]

45. 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]

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. A concrete footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site in accordance with Councils Development Design and Construction Specifications and Standard Drawing SD013.

Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork and subgrade to be inspected.

[DUR1735]

51. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be
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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]

52. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act.

[DUR1885]

53. 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]

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

[DUR2015]

55. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blow from the site.

[DUR2185]

56. 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]

57. 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 NSW Code of Practice for Plumbing and Drainage.

[DUR2495]

58. 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]

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

59. 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]

60. 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]
61. 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]
62. A satisfactory final inspection of the building is to be carried out by Council prior to occupation or use commencing.  
[POC0255]
63. All landscaping work is to be completed in accordance with the approved plan prior to any use or occupation of the building.  
[POC0475]
64. Portable fire extinguishers containing an extinguishing agent suitable for the risk being protected must be installed in accordance with Australian Standard AS 2444 "Portable Fire Extinguishers - Selection and Location" and Part E1.6 of the Building Code of Australia.  
[POC0515]
65. All existing essential fire safety measures are to be certified by a qualified person to the effect that each of the fire safety measures has been assessed and were found to be performing to a standard not less than that to which it was originally designed.  
[POC0525]
66. 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]
67. 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]
68. 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]
69. 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]
70. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.  
[POC1055]
71. Prior to occupation of the development, Council must undertake a final inspection of the works and be satisfied that all conditions of consent have been complied with.
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[POCNS01]

72. Prior to the issue of an occupation certificate the swimming pool located over No. 7 and No. 9 Boyd Street is to be removed and the metal clad enclosure attached to the building at No. 7 Boyd Street which encroaches over the side boundary is to be removed. After the removal of this attachment the southern elevation of this building is to be restored to its previous form and should comply with the BCA in respect of weatherproof requirements and boundary setbacks.

[POCNS02]

## 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 ( $L_{Aeq}$ ) 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. Hours of operation of the business are restricted to the following hours:

- \* Mondays to Fridays: 9am to 5pm (staff access); 10am to 4pm (client access)
- \* Weekends and Public Holidays: 9:30am to 2:30pm (staff access); 10am to 2pm (client access).

[USE0185]

76. 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]

77. 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]

78. 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]

79. No residential accommodation shall be provided to clients at the premise.

[USENS01]

80. The outdoor recreation area shall be screened by fencing with a minimum height of 1.8m and associated landscaping to the satisfaction of the General Manager or his delegate.

[USENS02]

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81. Activities at the premise shall be supervised by suitably qualified staff at all times.

[USENS03]

82. The two mature fig trees at the front of the property are to be retained and suitably maintained as part of the overall landscaping management of the site.

[USENS04]

## **AMENDMENT 1**

**611**

**Cr K Milne  
Cr G Bagnall**

**PROPOSED** that the Development Application DA12/0215 for a change of use to daytime respite care centre with associated signage, car parking and landscaping at Lot 23 DP 8100 No. 9 Boyd Street, Tweed Heads be deferred for further research on this matter.

Amendment 1 was **Lost**

***FOR VOTE - Cr K Milne, Cr G Bagnall***

***AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr B Longland***

## **AMENDMENT 2**

**612**

**Cr K Milne  
Cr G Bagnall**

**PROPOSED** that Development Application DA12/0215 for a change of use to daytime respite care centre with associated signage, car parking and landscaping at Lot 23 DP 8100 No. 9 Boyd Street, Tweed Heads be approved subject to the following conditions:

### **GENERAL**

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

- Plan No. 1417D Amendment 1 Sheet 1 (Site Plan) as amended in red, prepared by Parameter Designs and dated 8 August 2012
- Plan No. 1417D Amendment 1 Sheet 3 (Street Elevation; Sign Plan; Sign Elevation; Symbol Plan; Symbol Elevation) prepared by Parameter Designs and dated 8 August 2012
- Plan No. 1417D Amendment 1 Sheet 5 (Proposed Floor Plan) prepared by Parameter Designs and dated 8 August 2012
- Plan No. 1417D Amendment 1 Sheet 6 (Elevations) prepared by Parameter Designs and dated 8 August 2012

except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0015]

3. Additional advertising structures/signs to be the subject of a separate development application (where statutorily required).

[GEN0065]

- 3a. This consent be limited to a period of 12 months, within that period the applicant is required to submit a Section 96 Application to modify the consent to seek Council consideration of the permanent use of this proposal.

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

[GEN0115]

5. 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]

6. 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.

[GEN0245]

7. The development is to be carried out in accordance with Council's Development Design and Construction Specifications.

[GEN0265]

8. The approved signage and symbol are not illuminated and do not include moving graphics or signage elements that flash, flicker or are animated in any way.

[GENNS01]

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

9. The developer shall provide six (6) 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. The disabled car park shall be designed in accordance with Australian Standard AS2890.6.

The developer shall provide two (2) bicycle parks in accordance with Australian Standard AS2890.3.

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]

10. 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:

2.86 Trips @ \$822 per Trips \$2351

(\$815 base rate + \$7 indexation)

S94 Plan No. 4

Sector1\_4

[PCC0215]

11. 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 "Contribution Sheet" and a "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 DSP4: 0.2 ET @ \$12150 per ET \$2430

Sewer Banora: 1 ET @ \$5838 per ET \$5838

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.

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

[PCC0265]

12. 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]

13. A detailed plan of landscaping generally in accordance with amended Landscaping Concept Plan Issue B (prepared by Bizscapes and dated May 2012) shall be submitted to Council and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate:

- Incorporating the two mature fig trees at the front of the site, and
- Indicating consistency with approved Site Plan (Plan No. 1417D Amendment 1 Sheet 1, as amended in red, prepared by Parameter Designs and dated 8 August 2012).

[PCC0585]

14. Details of the kitchen exhaust system are to be provided and approved prior to release of the Construction Certificate if required. Such details are to include the location of discharge to the air, capture velocity, size and hood and angle of filters. The system shall comply with AS1668.2 - Ventilation Requirements.

[PCC0735]

15. 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 Council's Development Design and Construction Specifications for the following required works:

- (a) Provision for widening the existing access "splay" in accordance with Section A2 - Site Access and Parking Code of Council's consolidated Tweed Development Control Plan and Council's Driveway Access to Property - Part 1 Design Specification June 2004.
- (b) Provision for a concrete footpath 1.2 metres wide and 100 millimetres thick to be constructed on a compacted base along the entire frontage of the site in accordance with Council's Development Design and Construction Specifications and Standard Drawing SD013.

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

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

[PCC0895]

16. 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]

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. Prior to the issue of a construction certificate, plans drawn to a scale of 1:50 detailing the following with regards to all food related areas shall be provided to Council for assessment and approval, accompanied by a completed Application for Approval of Food Premise Fitout and the adopted fee in Council's Fees and Charges. Evidence of the plans being approved shall be provided prior to release of the construction certificate.

- a. Floor plan
- b. Layout of kitchen showing all equipment including separate hand basin
- c. All internal finish details including floors, wall, ceiling and lighting
- d. Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required.

[PCCNS01]

#### **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
  - (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]
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. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.
- [PCW0835]
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 any erosion and sedimentation control plan and adequately maintained throughout the duration of the development.
- [PCW0985]
26. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.
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## DURING CONSTRUCTION

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

[DUR0005]

28. 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]

29. The provision of 6 off street car parking spaces and 2 bicycle spaces including parking for the disabled where applicable. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.

[DUR0085]

30. 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]

31. 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]

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. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- (a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
  - (b) The chute shall be located in a position approved by the Principal Certifying Authority.
  - (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.
- [DUR0385]
34. 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]
35. 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]
36. 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 Occupational Health and Safety Regulation 2001.
- [DUR0415]
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, Occupational Health and Safety Regulation 2001.
- 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. 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]
39. 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]
40. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. Such materials shall either be recycled or disposed of in a manner acceptable to Councils General Manager or his delegate.
-

[DUR1015]

41. 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]

42. Landscaping of the site shall be carried out in accordance with the approved landscaping plan.

[DUR1045]

43. 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]

44. All materials used in the building must comply with the smoke developed and spread of flame indices specified in Specification C1.10 of the Building Code of Australia.

Note: Many materials including some timbers such as western red cedar do not comply and it is the applicant's responsibility to ensure that all materials to be used are within the criteria specified.

[DUR1275]

45. 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]

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. A concrete footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site in accordance with Councils Development Design and Construction Specifications and Standard Drawing SD013.

Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork and subgrade to be inspected.

[DUR1735]

51. 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]

52. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act.

[DUR1885]

53. 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]

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

[DUR2015]

55. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blow from the site.

[DUR2185]

56. 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]

57. 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 NSW Code of Practice for Plumbing and Drainage.

[DUR2495]

58. 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]

## PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

59. 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]
60. 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]
61. 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]
62. A satisfactory final inspection of the building is to be carried out by Council prior to occupation or use commencing.  
[POC0255]
63. All landscaping work is to be completed in accordance with the approved plan prior to any use or occupation of the building.  
[POC0475]
64. Portable fire extinguishers containing an extinguishing agent suitable for the risk being protected must be installed in accordance with Australian Standard AS 2444 "Portable Fire Extinguishers - Selection and Location" and Part E1.6 of the Building Code of Australia.  
[POC0515]
65. All existing essential fire safety measures are to be certified by a qualified person to the effect that each of the fire safety measures has been assessed and were found to be performing to a standard not less than that to which it was originally designed.  
[POC0525]
66. 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]
67. 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]
68. 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]
69. 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]



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

[POC1055]

71. Prior to occupation of the development, Council must undertake a final inspection of the works and be satisfied that all conditions of consent have been complied with.

[POCNS01]

72. Prior to the issue of an occupation certificate the swimming pool located over No. 7 and No. 9 Boyd Street is to be removed and the metal clad enclosure attached to the building at No. 7 Boyd Street which encroaches over the side boundary is to be removed. After the removal of this attachment the southern elevation of this building is to be restored to its previous form and should comply with the BCA in respect of weatherproof requirements and boundary setbacks.

[POCNS02]

## 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 ( $L_{Aeq}$ ) 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. Hours of operation of the business are restricted to the following hours:

- \* Mondays to Fridays: 9am to 5pm (staff access); 10am to 4pm (client access)
- \* Weekends and Public Holidays: 9:30am to 2:30pm (staff access); 10am to 2pm (client access).

[USE0185]

76. 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]

77. 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]

78. 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]

79. No residential accommodation shall be provided to clients at the premise.

[USENS01]

80. The outdoor recreation area shall be screened by fencing with a minimum height of 1.8m and associated landscaping to the satisfaction of the General Manager or his delegate.

[USENS02]

81. Activities at the premise shall be supervised by suitably qualified staff at all times.

[USENS03]

82. The two mature fig trees at the front of the property are to be retained and suitably maintained as part of the overall landscaping management of the site.

[USENS04]

Amendment 2 was **Lost**

**FOR VOTE - Cr K Milne, Cr G Bagnall**

**AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr B Longland**

The Motion was **Carried** (Minute No 610 refers)

**FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr K Milne, Cr B Longland**

**AGAINST VOTE - Cr G Bagnall**

**15 [PR-CM] Development Application DA11/0456 for Additions to Existing Manufactured Home Estate Including 32 New Manufactured Home Sites, Recreation Area, Visitor Parking and Extension of Internal Road and Revegetation Work at Lot 193 DP 1014329 No. 34 Mona**

Cr W Polglase declared a pecuniary interest in this item, left the Chamber at 08:01 PM and took no part in the discussion or voting. The nature of the interest is that Cr Polglase is employed by the applicant.

**613**

**Cr P Youngblutt**

**Cr C Byrne**

**PROPOSED** that Development Application DA11/0456 for additions to existing manufactured home estate including 32 new manufactured home sites, recreation area, visitor parking and extension of internal road and revegetation work at Lot 193 DP 1014329 No. 34 Monarch Drive, Kingscliff be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects dated September 2011 prepared by Jim Glazebrook & Associates Pty Ltd (and additional correspondence), and plans listed in the table below, except where varied by the conditions of this consent.

Title	Date	Author	Drawing / Issue Number
Master Plan	23/07/2012	Zoran Architecture	MCU - 101 F2
Perimeter Reference Plan	23/07/2012	Zoran Architecture	MCU - 101 F2
Part Site plan 1	23/07/2012	Zoran Architecture	MCU-201 F1
Part Site plan 4	23/07/2012	Zoran Architecture	MCU - 204 F1
Part DCP - 1	23/07/2012	Zoran Architecture	MCU - 301 F1
Part DCP - 4	23/07/2012	Zoran Architecture	MCU-304 F1
External Work 1	23/07/2012	Zoran Architecture	MCU-401 F1
External Work 4	23/07/2012	Zoran Architecture	MCU-404 F1
Partial Site Plan (Fence Plan)	23/07/2012	Zoran Architecture	FEN01 F2
Partial Site Plan (Fence Plan)	23/07/2012	Zoran Architecture	FEN02 F2
Partial Site Plan (Fence Plan)	23/07/2012	Zoran Architecture	FEN03 F2
Landscape Plan		Deborah Carlile & Paul Mjatelski Pty Ltd	LSK01H
Landscape Plan		Deborah Carlile & Paul Mjatelski Pty Ltd	LSK04A
Landscape Plan		Deborah Carlile & Paul Mjatelski Pty Ltd	LSK02C
Landscape Plan		Deborah Carlile & Paul Mjatelski Pty Ltd	LSK03A

[GEN0005]

2. The use of crushing plant machinery, mechanical screening or mechanical blending of materials is subject to separate development application.  
[GEN0045]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.  
[GEN0115]
4. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property.  
[GEN0135]
5. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.  
[GEN0265]
6. Development of the proposed dwelling sites shall be carried out in accordance with the noise attenuation measures recommended in the report of Craig Hill Acoustics (ref: *Noise Level Impact Assessment - revision 3*, Craig Hill Acoustics 24 February 2012) and design drawings Zoran Architecture drawings MCU-101 F2; MCU-102 F2; MCU-201 F2; MCU-204 F2; MCU-301 F2; MCU-304 F2; MCU-401 F2; MCU-404 F2; FEN01 F2; FEN02 F2; and FEN03 F2 dated 23-07-2012.

Future construction and installation of the proposed manufactured homes shall also be carried out in accordance with the noise attenuation measures recommended in the report of Craig Hill Acoustics (ref: *Noise Level Impact Assessment - revision 3*, Craig Hill Acoustics 24 February 2012) except: a) "the Rw values given in Table 4.6 are the minimum values that are to be used; b) "windows rated at 30Rw or higher to be installed in all bedroom windows facing the track, on the adjoining property to the north, known as Lot 1 DP 227034.

[GENNS01]

7. Satisfactory compensation, generally as illustrated by Landscape Plan LSK04A by Zoran Architecture version A1.8.12 (minor amendment), must be provided for loss of habitat of high ecological value, evidenced by a Habitat Restoration Plan prepared in accordance with Council's draft *Guideline for the preparation and implementation of Habitat Restoration Plans*. The Habitat Restoration Plan must include, but not be limited to:

- a schedule and timing of on-ground works to be undertaken
- a signed contract or other evidence of commitment by the consent holder to fund the proposed habitat restoration works for a minimum period of five years and that the works will be completed by qualified and experienced ecological restoration. personnel.
- evidence as to how the agreed offset sites will be protected from future development.

[GENNS01]

8. A maximum of two bedrooms are permitted in each manufactured home.

[GENNS02]

9. Prior to the operation of the expanded manufactured home site, prior approval must be given by Council under section 68 of the Local Government Act.

[GENNS03]

10. Prior to the installation of any building or structure, prior approval must be given by Council under section 68 of the Local Government Act.

[GENNS03]

11. A manufactured home and associated structure must not be installed on a single dwelling site if the floor plan area of the manufactured home (together with that of any associated structure or other building or structure on the site) is more than two-thirds of the area of the site.

[GENNS04]

12. The manufactured home estate shall be designed, constructed and maintained in accordance with the requirements of Division 3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

[GENNS05]

13. The proposed dwellings are to comply with the definition of a manufactured home. A manufactured home is a self-contained dwelling (that is, a dwelling that includes at least one (1) kitchen, bathroom, bedroom and living area that also includes toilet and laundry facilities), being a dwelling:

- a. that comprises one or more sections that are each constructed, and assembled, away from the manufactured home estate and transported to the estate for installation on the estate; and

- b. that is not capable of being registered under the Traffic Act 1909, and includes any associated structures that form part of the dwelling.

### PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

14. Any car parking floodlighting shall not spill beyond the boundaries of the site. Lighting shall comply with AS 4282 and other relevant Australian Standards. A plan of the lighting shall be approved by the Principal Certifying Authority PRIOR to the issue of a Construction Certificate.

[PCC0055]

15. 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:

124.8 Trips @ \$1146 per Trips \$143021

(\$1137 base rate + \$9 indexation)

S94 Plan No. 4

Sector6\_4

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5.1.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$  heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads

(trip one way)

\$Unit the unit cost attributed to maintaining a road as set out in Section 6.4  
(currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

(b) West Kingscliff - Drainage:

1.725 HA @ \$56641 per HA \$97705.73

(\$5664.1 base rate + \$50976.9 indexation)

DCP Section B4

S94 Plan No. 7

(c) West Kingscliff - Open Space:

22.6656 ET @ \$2906 per ET \$65866

(\$1849 base rate + \$1057 indexation)

DCP Section B4

S94 Plan No. 7

(d) Shirewide Library Facilities:

22.6656 ET @ \$816 per ET \$18495

(\$792 base rate + \$24 indexation)

S94 Plan No. 11

(e) Bus Shelters:

22.6656 ET @ \$62 per ET \$1405

(\$60 base rate + \$2 indexation)

S94 Plan No. 12

(f) Eviron Cemetery:

22.6656 ET @ \$121 per ET \$2743

(\$101 base rate + \$20 indexation)

S94 Plan No. 13

(g) Community Facilities (Tweed Coast - North)

22.6656 ET @ \$1352 per ET \$30644

(\$1305.6 base rate + \$46.4 indexation)

S94 Plan No. 15

(h) Extensions to Council Administration Offices  
& Technical Support Facilities

22.6656 ET @ \$1812.62 per ET \$41084.12

(\$1759.9 base rate + \$52.72 indexation)

S94 Plan No. 18

(i) Cycleways:

22.6656 ET @ \$460 per ET \$10426  
(\$447 base rate + \$13 indexation)  
S94 Plan No. 22

(j) Regional Open Space (Casual)  
22.6656 ET @ \$1064 per ET \$24116  
(\$1031 base rate + \$33 indexation)  
S94 Plan No. 26

(k) Regional Open Space (Structured):  
22.6656 ET @ \$3730 per ET \$84543  
(\$3619 base rate + \$111 indexation)  
S94 Plan No. 26

[PCC0215/PSC0175]

16. 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.

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.

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5 prior to the issue of a construction certificate. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$  heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads  
(trip one way)

$\text{\$Unit}$  the unit cost attributed to maintaining a road as set out in Section 7.2 (currently 5.4c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.6

[PCC0225/PSC0185]

17. 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 "Contribution Sheet" and a "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 DSP5: 19.2 ET @ \$12150 per ET \$233,280

Sewer Kingscliff: 24 ET @ \$5838 per ET \$140,112

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.

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

[PCC0265/PSC0165]

18. 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 (public infrastructure - insert / delete as applicable) 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]

19. 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]

20. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, description of material, proposed use of material, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for the approval of the General Manager or his delegate.



Detail of the proposed haul route is also to be submitted to Council for approval. Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No. 4 will be required prior to the issue of a Construction Certificate.

[PCC0465]

21. 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]

22. Notwithstanding any other condition of this consent separate construction certificates for bulk earthworks and civil works may be issued and the carrying out of bulk earthworks may be commenced prior to the issue of a Construction Certificate for civil works where it can be demonstrated all works are compatible.

[PCC0495]

23. Site filling and associated drainage is to be designed to address drainage on the site as well as existing stormwater flows onto or through the site, and minimising the impact of filling on local drainage. Detailed engineering plans of fill levels, perimeter and transverse drainage shall be submitted for Council approval by the Principle Certifying Authority.

[PCC0675]

24. Design detail shall be provided to address the flood compatibility of the development, including the following specific matters:

- a) Design flood level of RL 3.2m AHD
- b) Minimum habitable floor level for the dwellings of RL 3.7m AHD
- c) All dwelling sites shall be filled to a minimum of the design flood level
- d) Culverts shall be provided under the filled access road in general accordance with the approved plans, in order to convey flood waters for a range of flood intensities through the site without creating significant adverse impact on the locality.
- e) Acoustic treatment of the flood culverts under the filled access road must be designed to ensure that the inlet capacity of the culverts is maximised, so as to not create significant adverse impact on local flood behaviour. Clear, unobstructed flow widths to adjacent structures or fill batters must be provided and maintained around acoustic treatments such as lapped fences, to provide net equivalency to the culvert width at the inlet. The acoustic treatment must be certified as meeting acceptable acoustic and flood impact criteria by suitably qualified and experienced acoustic and hydraulic consultants.
- f) All dwelling sites created by the development must be serviced by a high level evacuation route, as defined by Council's Development Control Plan Section A3 - Development of Flood Liable Land. The construction certificate application must provide a plan of the identified route, including surveyed levels by a registered surveyor at appropriate intervals and critical locations along the route demonstrating compliance. If compliance cannot be demonstrated, the applicant

shall undertake upgrades of Council roads and/or stormwater drainage so as to achieve a compliant high level evacuation route. These works may require separate approval(s), which must be obtained from Council prior to issue of a Construction Certificate for the development.

[PCC0705]

25. 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]

26. 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]

27. 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.
- (d) Specific Requirements to be detailed within the Construction Certificate application include:
- (i) Shake down area along the haul route immediately before the intersection with the road reserve.

[PCC1105]

28. 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.
- b) Where Council is requested to issue a construction certificate for civil works associated with a subdivision 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]

29. 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]

30. 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]

31. Submit to Council, for approval, a preliminary soil testing (acid sulfate soil) report, and acid sulfate soil management plan where the results of the preliminary soil testing indicates the presence of acid sulfate soils. All works shall comply with the approved plan.

[PCCNS01]

32. Prior to the issue of a Construction Certificate the applicant shall submit design detail for the retaining structures to be erected on the site in accordance with AS 4678. A registered qualified structural engineer and a registered qualified geotechnical engineer shall provide the following details prior to approval;

- (a) Design detail for the retaining structures is to be supported by certification of adequacy of design from a qualified structural engineer.
- (b) A registered geotechnical engineer shall also provide a certification of adequacy to support the design of the proposed manufactured block concrete retaining

walls, cantilevered footings and soil anchors based on the subsurface conditions of the lake, exported fill material, AS3798, AS4678 and any other geotechnical requirements.

[PCCNS02]

33. Prior to issue of a Construction Certificate, a certification of adequacy is to be provided by a suitably qualified person to state the proposed retaining structure is capable of being submerged long term within the existing lake to support the proposed road, fill material and manufactured homes. Supporting evidence (including test results) from the manufacturer is to be provided with the certification.

[PCCNS03]

34. A Traffic management plan is to be provided prior to the issue of a Construction Certificate to address the following;

- Number of trucks proposed to enter and leave the site for both the filling and building works.
- Source of fill material
- Haul route for proposed fill material to the development site
- Construction time frame for both filling and building works
- Traffic control plan prepared by an RTA accredited person in accordance with AS1742 and RTA publication "Traffic at Work Sites" latest version.

[PCCNS04]

35. A detailed plan of landscaping containing no noxious or environmental weed species and with species selection guided by Council's native species planting guide at the following link: <http://www.tweed.nsw.gov.au/NativePlantGuide> is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.

[PCCNS05]

36. Prior to issue of the construction certificate, the applicant is to submit a Habitat Restoration Plan in accordance with Council's draft *Guideline for the preparation and implementation of Habitat Restoration Plans* detailing environmental enhancement works across the site. The Habitat Restoration Plan must be approved to the satisfaction of Council's General Manager or his delegate prior to commencement of works.

[PCCNS05]

37. Prior to issue of the Construction Certificate, a Construction Environmental Management Plan must be prepared and approved by the General Manager or his delegate to detail mitigation measures for wader birds and other aquatic or terrestrial flora and fauna species known or predicted to occur on or adjacent to the site. The plan must include, but not be limited to, the following matters:

- a. Environmental safeguards (silt curtains, booms etc.) are to be utilised during retaining wall construction to ensure there is no escape of turbid plumes into the aquatic environment. Erosion and sediment controls must be in place prior to commencing, during and after works.
- b. Sand, gravel, silt, topsoil or other materials must not be stockpiled within 50 metres of the water unless surrounded by sediment control measures.

- c. All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.

[PCCNS05]

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

38. Prior to the commencement of works, the applicant shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with either:-

- (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3<sup>rd</sup> Edition, NSW Government, or
- (b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
- (c) WorkCover Regulations 2000

[PCW0025]

39. 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]

40. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:

- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

41. 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]

42. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of the fill, nature of material, proposed use of material and confirmation that further blending, crushing or processing is not to be undertaken shall be submitted to the satisfaction of the General Manager or his delegate.

Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to the issue of the Subdivision Certificate.

[PCW0375]

43. Dilapidation reports detailing the current general condition including the structural condition of the adjoining buildings/sites, infrastructure and roads are to be prepared and certified by a suitably qualified and experienced structural engineer. The reports are to be submitted to Council prior to commencement of ANY works on the site.

The dilapidation reports shall take into consideration the findings of the original reports and provide to Council the written acceptance of the adjoining/adjacent owners confirming agreement that no damages have occurred/repairs carried out are acceptable.

[PCW0775]

44. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.

[PCW0835]

45. 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 any 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]

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

[PCW1065]

47. Prior to commencement of works plans to be submitted and approved by Council, showing that passing bays will be provided along the access road in accordance with clause 21 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 - width of roads.

[PCWNS01]

48. Commencement of works in accordance with the Schedule of Works within the approved Habitat Restoration Plan must be demonstrated prior to clearing of the Swamp Oak Floodplain Forest, Banksia Woodland or freshwater wetland vegetation within the development site.

[PCWNS02]

## **DURING CONSTRUCTION**

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

[DUR0005]

50. 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 Friday from 7.00am to 5.00pm

No work to be carried out on Saturday, Sundays or Public Holidays

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

[DUR0205]

51. 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]

52. All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded to the satisfaction of Council's General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation.

[DUR0225]

53. All waters pumped from the site in the dewatering process are to be treated with an effective deodoriser to the satisfaction of Council's General Manager or his delegate to neutralise any offensive odours. The point of discharge shall be approved by Council's General Manager or his delegate prior to installation and shall include a water sampling outlet.

[DUR0235]

54. Pumps used for dewatering operations are to be electrically operated. Diesel pumps are not to be used unless otherwise approved by the Tweed Shire Council General Manager or his delegate.

[DUR0255]

55. 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]

56. 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]

57. 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]

58. 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 Occupational Health and Safety Regulation 2001.

[DUR0415]

59. No filling is to be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.

No filling of any description is to be deposited, or remain deposited, within adjacent properties.

[DUR0765]

60. 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]

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

[DUR0815]

62. 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]

63. 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]

64. 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]

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

[DUR1015]



66. 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]

67. A concrete footpath with a minimum width of 1m is to be provided along the full length of the proposed road and along the northern boundary as per plan titled Master Plan, sheet MCU-101 Issue F2, prepared by Zoran Architecture dated 23/07/2012.

[DUR1735]

68. 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]

69. 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]

70. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation Certificate.

[DUR1955]

71. 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]

72. 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 blow from the site.

[DUR2185]

73. 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]

74. 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]

75. 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. The contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request.

[DUR2435]

76. 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]

77. 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 NSW Code of Practice for Plumbing and Drainage.

[DUR2495]

78. 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]

79. 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:-

- \* 43.5°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]

80. Vegetation clearing at all locations shall be limited to the minimum necessary for the developments to proceed, and all works sites, stockpile areas, storage facilities and vehicle parking and maintenance areas shall be located on already disturbed land, avoiding any necessity for the clearing of native vegetation for these activities. The applicant is to demonstrate that the trees being retained on the site and on any adjacent land have been protected in accordance with Australian Standard AS 4970-2009 *Protection of trees on development sites*.

[DURNS01]

81. All erosion and sedimentation controls shall be maintained in accordance with the report of Baclon Pty Ltd (ref: Engineering Impact Assessment Proposed Lakeside Villa Development dated 5 September 2011) or to a different standard as required by the

General Manager or his delegate, throughout the period of construction and any environment restoration works.

[DURNS01]

82. Each dwelling site must be numbered or identified and its site boundaries clearly delineated, and the site identification must be conspicuous.

[DURNS02]

83. Internal access road(s) to be speed limited to 15kmh and signed accordingly.

[DURNS03]

84. The provision of one additional car parking space for the disabled is required. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.

[DURNS04]

85. The following geotechnical requirements are to be addressed during construction;

(a) Level 1 geotechnical testing

ALL 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.

(b) Grid settlement plates

A series of geotechnical grid settlement plates are to be installed across the site and monitored during filling and for a period after the filling has been completed to measure any settlement which will occur as a result of the proposed development, as recommended in the geotechnical report prepared by Shaw Urquhart titled "Geotechnical assessment in response to Tweed Shire Council letter dated 6 December 2011" prepared by Shaw Urquhart dated 27 March 2012.

The period of time for geotechnical monitoring after filling is complete is to be nominated by the geotechnical engineer.

A certificate from a registered Geotechnical Engineer certifying that settlement has terminated and the development will not be comprised by any further settlement is to be provided to the Principle Certifying Authority after completion.

(c) Filling works

All filling works shall be in accordance with the geotechnical report titled "Geotechnical assessment in response to Tweed Shire Council letter dated 6 December 2011" prepared by Shaw Urquhart dated 27 March 2012."

[DURNS05]

86. The retaining structures are to be designed, inspected and certified by a qualified structural engineer experienced in structures.

[DURNS05]

87. All access roads must be adequately lit between sunset and sunrise.

[DURNS05]

88. Any such electrical circuit must be installed in accordance with the requirements of AS/NZS 3000:2000, *Electrical Installations* (known as the Australian/New Zealand Wiring Rules).

[DURNS05]

89. A common trench may be used for the installation of services in accordance with guidelines provided in AMCORD;

[DURNS05]

90. Fire hydrants shall be designed, installed and commissioned in accordance with AS2419.1 - 2005 Fire Hydrant Installations”

[DURNS05]

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

91. 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]

92. Prior to the issue of an Occupation 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 civil works approved under Section 138 of the Roads Act and Section 68 of the Local Government Act as set out in Councils 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 Occupation 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.

[POC0165]

93. 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]

94. 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]

95. 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]

96. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate.

[POC0855]

97. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council. Written approval from Councils General Manager or his delegate must be issued prior to the issue of an Occupation Certificate.

[POC0865]

98. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

99. Prior to the occupation or use of any building a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

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

[POCNS01]

101. All retaining walls in excess of 1.2m are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the Occupation Certificate application and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

In addition to the above certification, the following is to be included in the Section 88B Instrument to accompany the final plan of subdivision.

(a) A restriction to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.3m in vertical height within a zone adjacent to the wall that is equal to the height of the wall.

(b) Each lot burdened and or benefited by a Type 1 wall as defined in AS4678-2002 Earth Retaining Structures, shall contain a restriction to user advising the landowner of the need to maintain the wall in accordance with that standard.

Tweed Shire Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

[PSC0785]

102. Upon completion of all works on the site and prior to the issue of an Occupation (including interim) / Subdivision Certificate, a final Dilapidation Report is to be prepared and certified by a suitably qualified and experienced structural engineer detailing the current general condition including the structural condition of the adjoining buildings / sites, infrastructure and roads.

The dilapidation report shall take into consideration the findings of the original report and provide to Council the written acceptance of the adjoining / adjacent owners confirming agreement that no damages have occurred / repairs carried out are acceptable.

[POC0825]

103. Easements to drain water benefitting Council shall be created over the flood culverts and the connecting flow paths between Tweed Coast Road and Noble Lake.

[POCNS01]

104. The existing easement for a sewer rising main 3m wide (created under DP 836315) located in the north west corner which is no longer in use is to be extinguished. Documentary evidence for the extinguishment of the easement is required prior to issue of the Occupation Certificate.

[POCNS02]

105. A qualified engineer shall provide engineering certification for the retaining structures prior to the issue of an Occupation Certificate.

[POCNS03]

106. Certification by a qualified engineer that the civil and road works have been constructed under their supervision in accordance with the approved engineering plans and specifications prior to the issue of an Occupation Certificate.

[POCNS04]

107. Geotechnical engineering certification is to be provided for the proposed development to certify that settlement has terminated and the development will not be comprised by any further settlement. The settlement plate information is to be provided with the geotechnical certification to validate settlement has stopped prior to the issue of an Occupation Certificate.

[POCNS05]

108. Primary weeding and/or planting and establishment must be completed in accordance with the Schedule of Works within the approved Habitat Restoration Plan prior to issue of any Occupation Certificate for the site.

[POCNS05]

## USE

109. 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]

110. Except as may be expressly provided in a licence approval under the Protection of the Environment Operations Act 1997 (POEO) Act, the licence holder must comply with section 120 of the POEO Act 1997 prohibiting the pollution of waters.

[USE0155]

111. The  $L_{Aeq, 15 \text{ min}}$  noise level emitted from the premises shall not exceed the background noise level ( $L_{Aeq}$ ) 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]

112. 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]

113. Timber decks over the existing lake shall be constructed of hardwood and shall not be treated with oils, paints, detergents or other chemicals.

[USENS01]

114. All retaining walls in excess of 1.2m are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the Occupation Certificate application and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

In addition to the above certification, the following is to be included in the Section 88B Instrument to accompany the Occupation Certificate.

- (a) A restriction to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.3m in vertical height within a zone adjacent to the wall that is equal to the height of the wall.
- (b) Each lot burdened and or benefited by a Type 1 wall as defined in AS4678-2002 Earth Retaining Structures, shall contain a restriction to user advising the landowner of the need to maintain the wall in accordance with that standard.

Tweed Shire Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

[PSC0785]

115. 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.

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.

Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the Community Land Development Act, Strata Titles Act, Conveyancing Act, or other applicable legislation.

[PSC0835]

**GENERAL TERMS OF APPROVAL FOR WORK REQUIRING A CONTROLLED ACTIVITY APPROVAL UNDER THE WATER MANAGEMENT ACT 2000**

Number	Condition
<b>Plans, standards and guidelines</b>	
1	These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA11/0456 and provided by Council: (i) Site plan, map and/or surveys (ii) Structural design and specifications (iii) Vegetation Management Plan (iv) Works Schedule (v) Erosion and Sediment Control Plan (vi) Soil and Water Management Plan (vii) Rehabilitation Plan Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.
2	Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or

Number	Condition
	within 40 metres of the top of the bank or shore of the lake identified.
3	The consent holder must prepare or commission the preparation of: (i) Vegetation Management Plan (ii) Works Schedule (iii) Erosion and Sediment Control Plan (iv) Soil and Water Management Plan
4	All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water's guidelines located at <a href="http://www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx">www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx</a> (i) Vegetation Management Plans (ii) Outlet structures
5	The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.
<b>Rehabilitation and maintenance</b>	
6	The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.
7	N/A
<b>Reporting requirements</b>	
8	The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.
<b>Security deposits</b>	
9	N/A
<b>Access-ways</b>	
10	N/A
11	N/A
<b>Bridge, causeway, culverts, and crossing</b>	
12	The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the lake or waterfront land, other than in accordance with a plan approved by the NSW Office of Water.
13	N/A
<b>Disposal</b>	
14	N/A
<b>Drainage and Stormwater</b>	



<b>Number</b>	<b>Condition</b>
15	The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office of Water.
16	The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.
<b>Erosion control</b>	
17	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
<b>Excavation</b>	
18	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
19	N/A
<b>Maintaining river</b>	
20	The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by the NSW Office of Water.
21	N/A
<b>River bed and bank protection</b>	
22	N/A
23	N/A
<b>Plans, standards and guidelines</b>	
24	N/A
25	N/A
26	N/A
27	N/A
<b>END OF CONDITIONS</b>	

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

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:

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

#### Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

2. An emergency and evacuation plan is to be prepared for the whole estate that complies with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

#### 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:

3. Dwellings 1, 2 and 27 to 30 shall comply with section 5 (BAL 12.5) Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
4. Dwelling 31 shall comply with section 6 (BAL 19) Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
5. Dwelling 32 shall comply with section 7 (BAL 29) Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

#### Landscaping

6. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

The Motion was **Lost**

**FOR VOTE - Cr P Youngblutt, Cr C Byrne**

**AGAINST VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland**

**ABSENT. DID NOT VOTE - Cr W Polglase**

**MOTION:**

**614**

**Cr K Milne**

**Cr B Longland**

**RESOLVED** that Development Application DA11/0456 for additions to existing manufactured home estate including 32 new manufactured home sites, recreation area, visitor parking and extension of internal road and revegetation work at Lot 193 DP 1014329 No. 34 Monarch Drive, Kingscliff be refused for the following reasons:

1. In accordance with Section 79C (1)(b) of the Environmental Planning and Assessment Act 1979 the proposed development is considered to have a detrimental impact on the natural and built environment and detrimental social and economic impacts in the locality as the development will result in:
  - Loss of visual amenity for existing residents in the development because of loss of vegetation and change of view to urban environment;
  - Loss of amenity for existing residents due to loss of access to the nature walk;
  - Loss of amenity for existing residents due to increased noise from the proposed residences affecting the open space on the southern side of the lake;
  - Loss of visual amenity to adjoining properties due to the impact of the proposed fill, retaining walls and noise attenuation fencing;
  - There is insufficient information to demonstrate that the development will not have a negative impact on flooding affecting neighbouring properties; and
  - The noise level impact assessment indicates noise from the adjacent trotting track will exceed background noise levels.
  
2. Pursuant to Section 79C (1)(c) of the Environmental Planning and Assessment Act 1979 the site is not considered suitable for the proposed development for the following reasons:
  - The proposed development will have a negative impact on the natural environment as the site is of ecological significance as part of a regional wildlife corridor and in providing habitat for wading birds and other wetland species, a number of which are listed as threatened on the Schedules of the Threatened Species Conservation Act 1995 and significant parts of the existing vegetation is proposed to be removed.
  - A geotechnical report addressing the potential impacts of the development has not provided certainty that the site is suitable for the development.
  - The design of the internal road as a combined road and walkway will adversely affect the safety and amenity of all residents.
  - The development requires excessive fill and alteration to the natural landform and the proposed cantilevered buildings overshadowing the lake which demonstrates that the proposal is an overdevelopment of the site.

The Motion was **Carried**

***FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland***

***AGAINST VOTE - Cr P Youngblutt, Cr C Byrne***

***ABSENT. DID NOT VOTE - Cr W Polglase***

Cr W Polglase has returned from temporary absence at 08:18 PM

## **16 [PR-CM] Northern Joint Regional Planning Panel - Review of Council Appointed Panel Members**

**615**

**Cr K Milne**

**Cr M Armstrong**

**RESOLVED** that:

1. Council endorses that an expressions of interest process be conducted for Council representation on the Northern Joint Regional Planning Panel; and
2. A further report be submitted to Council on the results of the expressions of interest process, with a view to endorsing two Council Panel members, and an alternate Panel member for a three year period, commencing from 1 January 2013.

Cr W Polglase left the meeting at 08:21 PM

The Motion was **Carried**

***FOR VOTE - Voting - Unanimous***  
***ABSENT. DID NOT VOTE - Cr W Polglase***

**CONFIDENTIAL COMMITTEE**

662

**Cr P Youngblutt**  
**Cr C Byrne**

**RESOLVED** that Council resolves itself into a Confidential Committee in accordance with Section 10A(2) of the Local Government Act 1993 (as amended) and that the press and public be excluded from the whole of the Committee Meeting, because, in the opinion of the Committee, publicity of the proceedings of the Committee would be prejudicial to the public interest, by reasons of the confidential nature of the business to be transacted.

The Motion was **Carried**

***FOR VOTE - Unanimous***

The General Manager reported that the Confidential Committee had excluded the press and public from the whole of the Committee Meeting because, in the opinion of the Committee, publicity of the proceedings of the Committee would be prejudicial to the public interest, by reason of the confidential nature of the business to be transacted, and made the following recommendations to Council:

**REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE**

**a1 [PR-CM] Leda Cobaki Development Site - Compliance Issues - Unauthorised Subdivision Works**

**REASON FOR CONFIDENTIALITY:**

The report contains confidential legal advice for action by Council and is therefore to be considered in confidential session.

**Local Government Act**

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

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

**C 51**

That:

1. Council continues discussions with Leda regarding the options for regularising the unlawful works at the Northern Hillside site and the Missing Link (Cobaki Parkway south).
2. Council writes to the Department of Planning and Infrastructure to determine if the Department intends to pursue legal action or rectification measures for the unlawful work associated with the project approval (MP08\_0200) development (Missing Link).

The Motion was **Carried**

***FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr B Longland***

***AGAINST VOTE - Cr K Milne, Cr G Bagnall***

