



**TWEED**  
SHIRE COUNCIL

**Mayor:** Cr B Longland

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

# Minutes

## **Planning and Regulation Reports Thursday 17 October 2013**

held at Murwillumbah Cultural and Civic Centre  
commencing at 4.45pm

## 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 4.45pm.

## IN ATTENDANCE

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

Also present were Mr Troy Green (Acting General Manager), Mr Michael Chorlton (Acting 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).

## 22 [PR-CM] Development Application DA13/0294 for a Change of Use of 19 Tourist Accommodation Units to Dual Use Shop Top Housing and Serviced Apartments at Lots 11, 12, 13, 85, 86, 87, 88, 89, 17, 19, 92, 93, 94, 25, 99, 100, 28, 31 and 107 in SP 79995, Nos.

642

**Cr G Bagnall**  
**Cr P Youngblutt**

**RESOLVED** that Development Application DA13/0294 for a change of use of 19 tourist accommodation units to dual use shop top housing and serviced apartments at Lots 11, 12, 13, 85, 86, 87, 88, 89, 17, 19, 92, 93, 94, 25, 99, 100, 28, 31 and 107 in SP 79995, Nos. 14-18 and 20-22 Stuart Street, Tweed Heads be approved subject to the following conditions:

### GENERAL

1. This Development Application approves the change of use of 19 tourist accommodation units within the Stage 1 ellipsoid towers of the Tweed Ultima into 19 dual use units that can be used as either residential units (defined as shop top housing) or tourist accommodation units (defined as serviced apartments). The 19 affected units are as follows:

- Level 2 - Lots 11, 12, 13, 85, 86, 87, 88, and 89 in SP 79995.
- Level 3 - Lots 17, 19, 92, 93, and 94 in SP 79995.
- Level 4 - Lots 25, 99, and 100 in SP 79995.
- Level 5 - Lots 28, 31 and 107 in SP 79995.

except where varied by the conditions of this consent.

[GEN0005]

2. The Ultima Stage 1 development is required to have the following parking provisions:

- 55 Commercial Spaces in SP 80159;
- 208 Accommodation Spaces in SP 79995 (16 of which have to be accessible for visitor parking).

Stacked parking spaces must be allocated to the same Lot Number.

The parking spaces are to be allocated within the respective body corporate and include parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

[GENNS01]

3. Section 94 Contributions

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

Prior to the 19 units subject of this application being used for residential purposes (and within 3 months of the date of this consent) all Section 94 Contributions must have been paid in full and the Council must have 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) Shirewide Library Facilities:  
13.4577 ET @ \$838 per ET \$11278  
(\$792 base rate + \$46 indexation)  
S94 Plan No. 11
- (b) Bus Shelters:  
13.4577 ET @ \$64 per ET \$861  
(\$60 base rate + \$4 indexation)  
S94 Plan No. 12
- (c) Eviron Cemetery:  
13.4577 ET @ \$123 per ET \$1655  
(\$101 base rate + \$22 indexation)  
S94 Plan No. 13
- (d) Extensions to Council Administration Offices  
& Technical Support Facilities  
2.4966 ET @ \$1860.31 per ET \$4644.45  
(\$1759.9 base rate + \$100.41 indexation)  
S94 Plan No. 18
- (e) Cycleways:  
6.1921 ET @ \$473 per ET \$2929  
(\$447 base rate + \$26 indexation)  
S94 Plan No. 22

- 
- (f) Regional Open Space (Casual)  
6.2377 ET @ \$1091 per ET \$6805  
(\$1031 base rate + \$60 indexation)  
S94 Plan No. 26
- (g) Regional Open Space (Structured):  
13.4577 ET @ \$3830 per ET \$51543  
(\$3619 base rate + \$211 indexation)  
S94 Plan No. 26

[GENNS02]

4. Within 3 months of the date of this consent the applicant shall create easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:
- (a) The western Tweed Ultima towers are (Stage 1) are to have parking allocated as follows, 55 commercial spaces and 208 accommodation spaces (16 of which have to be accessible for visitor parking) and all stacked parking spaces must be allocated to the same Lot Number.
- (b) The clear nomination of the lawful development nature of each of the 160 units. This will need to delineate between those units which are tourist accommodation units only, those units which are multi dwelling housing only (residential) and those units which are flexible and can be used for either multi dwelling housing (residential) or tourist accommodation.

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.

[GENNS03]

5. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. It is the applicant's responsibility to ensure the building complies with all relevant provisions of the Building Code of Australia.

[GENNS04]

The Motion was **Carried**

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

**23 [PR-CM] Section 96 Application DA08/0907.07 - Amendment to Development Consent DA08/0907 for Change of Use of Tourist Accommodation Units to Flexible Multi Dwelling Housing Units or Tourist Accommodation Units, Stratum Subdivision and Temporary At-Grade Parking area, Nos. 14-18 and 20-22 Stuart Street, Tweed Heads**

**643**

**Cr G Bagnall**

**Cr P Youngblutt**

**RESOLVED** that Section 96 Modification DA08/0907.07 for an amendment to Development Consent DA08/0907 for change of use tourist accommodation units to flexible multi dwelling housing units or tourist accommodation units, stratum subdivision and temporary at-grade parking area at Lot 1 SP 80159 and Lots 9, 10, 15, 91, 21, 97, 98, 27, 29, 30, 103, 104, 105, 33, 35, 36, 109, 110, 111, 41, 42, 116, 117, 46, 47, 48, 121, 122, 51, 52, 53, 54, 127, 128, and Lot 129 in SP 79995 Nos. 14-18 and 20-22 Stuart Street, Tweed Heads be approved subject to the following amendments being made to the consent:

1. Amend the description of the development to read as follows:

DA08/0907 for change of use tourist accommodation units to flexible multi dwelling housing units or tourist accommodation units and the associated stratum subdivision to allocate car parking at Stage 1 Tweed Ultima at Lot 1 SP 80159 and Lots 9, 10, 15, 91, 21, 97, 98, 27, 29, 30, 103, 104, 105, 33, 35, 36, 109, 110, 111, 41, 42, 116, 117, 46, 47, 48, 121, 122, 51, 52, 53, 54, 127, 128 and Lot 129 in SP 79995 Nos. 14-18 & 20-22 Stuart Street, Tweed Heads.

2. Delete Condition 1 and replace with new Condition 1A which reads as follows:

1A. The development shall be completed in accordance with:

- The Statement of Environmental Effects prepared by Darryl Anderson Consulting dated July 2008 except where varied by the amended S96 Applications as detailed in Darryl Anderson Consulting letters dated 16 September 2008 (DA08/09070.5), 23 April 2009 (DA08/0907.06), and 3 July 2013 (DA08/0907.07);
- Proposed Stratum Subdivision Plan (in relation to Stage 1 of Ultima) Nos 8431-22 (Sheets 1-6) prepared by Michel Group Services and dated 14/06/2013;

except where varied by the conditions of this consent.

[GEN0005]

3. Delete Condition 3A, 3B and 3C and replace these with new condition 3D which reads as follows:

3D. This Development Application (being a combination of the original DA08/0907, S96 DA08/0907.05, S96 DA08/0907.06 and S96 DA08/0907.07) approves the change of use of 35 tourist accommodation units within the ellipsoid towers of the Tweed Ultima into 35 flexible units that can be used as either multi dwelling housing units (shop top housing) or tourist accommodation units (serviced apartments). The 35 affected units are as follows:

- Level 2 - Lots 9 and 10 in SP 79995
- Level 3 – Lots 15 and 91 in SP 79995

- Level 4 – Lots 21, 97, and 98 in SP 79995
- Level 5 – Lots 27, 29, 30, 103, 104, and 105 in SP 79995
- Level 6 – Lots 33, 35, 36, 109, 110, 111 in SP 79995
- Level 7 – Lots 41, 42, 116, and 117 in SP 79995
- Level 8 – Lots 46, 47, 48, 121 and 122 in SP 79995
- Level 9 – Lots 51, 52, 53, 54, 127, 128 and 129 in SP 79995

[GENNS01]

4. Delete Condition 4A which related to the at-grade parking area.
5. Delete Condition 5 which related to the at-grade parking area.
6. Delete Condition 6 and replace it with Condition 6A which reads as follows:

6A The Ultima development is required to have the following parking provisions:

Stage 1 - Western Ellipsoid Towers

Stage 1 (comprising the two western ellipsoid towers) shall provide parking as follows:

- 55 Commercial Spaces in SP 80159;
- 208 Accommodation Spaces in SP 79995 (16 of which have to be accessible for visitor parking).

Stacked parking spaces must be allocated to the same Lot Number.

The parking spaces are to be allocated within the respective body corporates and include parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

[GENNS04]

7. Delete Condition 22 and replace it with Condition 22A which reads as follows:

22A. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:

- (a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.
- (b) DELETED
- (c) The western ellipsoid towers (Stage 1 of Ultima) are to have parking allocated as follows: 55 commercial spaces in SP 80159 and 208 Accommodation Uses in SP 79995 (16 of which have to be accessible for visitor parking) and all stacked parking spaces must be allocated to the same Lot Number.
- (d) The clear nomination of the lawful development nature of each of the 160 units. This will need to delineate between those units which are tourist accommodation units only, those units which are multi dwelling housing only (residential) and those units which are flexible and can be used for either multi dwelling housing (residential) or tourist accommodation.

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]

8. Delete Condition 25 and replace it with Condition 25A which reads as follows:

25A Prior to issuing the subdivision certificate the applicant is to have:

- Surrendered that part of Development Consent No. DA456-10-2003 relating to any areas now redundant as a consequence of DA08/0907 and/or any S96 approved by the Department of Planning. Such surrender shall be by lodgement of the prescribed information, suitably executed, as required by Section 80A(1)(b) of the Environmental Planning and Assessment Act, 1979 (as amended) and Clause 97 of the Environmental Planning and Assessment Regulations, 2000

[PSCNS01]

The Motion was **Carried**

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

---

- 24 [PR-CM] Development Application DA13/0132 - Change of Use (First Approved Use) to Surfboard Manufacturing, Extension of Mezzanine Level and Associated Signage at Lot 19 SP 80033, No. 19/23-25 Ourimbah Road, Tweed Heads**

**644**

**Cr M Armstrong  
Cr G Bagnall**

**RESOLVED** that Development Application DA13/0132 for a change of use (first approved use) to surfboard manufacturing, extension of mezzanine level and associated signage at Lot 19 SP 80033 No. 19/23-25 Ourimbah Road, *Tweed Heads* be deferred to the November Council meeting.



The Motion was **Carried**

**FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr M Armstrong, Cr G Bagnall, Cr B Longland**

**AGAINST VOTE - Cr C Byrne**

**ABSENT. DID NOT VOTE - Cr K Milne**

---

**25 [PR-CM] Development Application DA13/0247 for a Dual Use of Existing Dwelling (Tourist Accommodation) at Lot 21 DP 1030322 No. 39 Collins Lane, Casuarina**

**645**

**Cr P Youngblutt**

**Cr M Armstrong**

**RESOLVED** that Development Application DA13/0247 for a dual use of existing dwelling (tourist accommodation) at Lot 21 DP 1030322 No. 39 Collins Lane, Casuarina be granted in-principle support and a report to be brought back to a further Council meeting with recommended conditions of consent for Council to determine.

The Motion was **Carried**

**FOR VOTE - Voting - Unanimous**

**ABSENT. DID NOT VOTE - Cr K Milne**

---

**26 [PR-CM] Development Application DA13/0392 for Nine Lots into Two Lot Subdivision at Lots 13, 15, 16, 17, 24 DP 860153 and Lots 5, 6, 7, 13 DP 860666 No. 324 Reserve Creek Road, Kielvale**

**646**

**Cr G Bagnall**

**Cr M Armstrong**

**RESOLVED** that Development Application DA13/0392 for Development Application DA13/0392 for Nine Lots into Two Lot Subdivision at Lots 13, 15, 16, 17, 24 DP 860153 and Lots 5, 6, 7, 13 DP 860666 No. 324 Reserve Creek Road, Kielvale be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan of Proposed Subdivision (Sheets 1 and 2), prepared by NC White and Associates and dated 17/06/2013, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0125]

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

[GEN0290]

4. 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:

Vehicular access - the access location for proposed Lot 1 will require construction of a sealed driveway, from the road carriageway to 3m inside the property boundary.

The work shall be undertaken and completed generally in accordance with TSC standard drawing SD011.

A gate shall also be installed for the driveway in the boundary fence.

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

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

#### **DURING CONSTRUCTION**

5. 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]

#### **USE**

6. A roof catchment water supply source shall be provided for domestic purposes where a Council reticulated supply is unavailable. Any domestic water supply roof collection system should be fitted with a first flush device. Minimum storage tank capacity shall be 20,000 litres for the first bedroom, then an additional 15,000 litres per bedroom thereafter and shall be in addition to any water volume requirements stipulated by the NSW Rural Fire Services. Installation, water collection, and maintenance of rainwater tanks used for drinking purposes must comply with NSW Health requirements.

[USE1470]

**PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

7. Section 94 Contributions

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

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 94 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

These charges include indexation provided for in the S94 Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

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

- (a) Tweed Road Contribution Plan:
  - 6.5 Trips @ \$1871 per Trips \$12162
  - (\$1807 base rate + \$64 indexation)
  - S94 Plan No. 4
  - Sector10\_4
- (b) Open Space (Casual):
  - 1 ET @ \$543 per ET \$543
  - (\$502 base rate + \$41 indexation)
  - S94 Plan No. 5
- (c) Open Space (Structured):
  - 1 ET @ \$622 per ET \$622
  - (\$575 base rate + \$47 indexation)
  - S94 Plan No. 5
- (d) Shirewide Library Facilities:
  - 1 ET @ \$838 per ET \$838
  - (\$792 base rate + \$46 indexation)
  - S94 Plan No. 11
- (e) Eviron Cemetery:
  - 1 ET @ \$123 per ET \$123
  - (\$101 base rate + \$22 indexation)

S94 Plan No. 13

- (f) Community Facilities (Tweed Coast - North)

1 ET @ \$1389 per ET \$1389

(\$1305.6 base rate + \$83.4 indexation)

S94 Plan No. 15

- (g) Extensions to Council Administration Offices

& Technical Support Facilities

1 ET @ \$1860.31 per ET \$1860.31

(\$1759.9 base rate + \$100.41 indexation)

S94 Plan No. 18

- (h) Regional Open Space (Casual)

1 ET @ \$1091 per ET \$1091

(\$1031 base rate + \$60 indexation)

S94 Plan No. 26

- (i) Regional Open Space (Structured):

1 ET @ \$3830 per ET \$3830

(\$3619 base rate + \$211 indexation)

S94 Plan No. 26

[PSC0175]

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

[PSC0825]

9. 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 Restriction on Title is to be created over Lot 1 stating that:

- The lot is not connected to a reticulated water service, and that future owners will need to make alternative arrangements for a potable water supply.
- Future dwellings will need to provide rainwater tanks with a minimum capacity of 20,000 litres.
- The lot is not connected to a reticulated sewer system, and any dwelling will need to provide an on-site sewer management system to the satisfaction of Tweed Shire Council.
- Any proposed dwelling to be erected on this lot shall be located in the nominated building envelope approved by Development Consent DA13/0392. Alternative locations can be considered but will require separate approval of Council.

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

[PSC0835]

10. Submit to Council's Property Officer for approval an appropriate plan indicating the street/road address number to both proposed and existing lots. In accordance with clause 60 of the Surveying and Spatial Information Regulation 2012 the Plan of Subdivision (Deposited Plan) shall show the approved street address for each new lot in the deposited plan.

Furthermore, prior to the issue of a Subdivision Certificate, each lot shall have its' address number displayed in accordance with Council's procedure on street numbering.

[PSC0845]

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

The following information must accompany an application:

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

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

[PSC0885]

12. Prior to the issue of a Subdivision Certificate, a properly dimensioned plan shall be lodged with Council showing the relative position of existing fences, road formation and boundaries. Any encroaching road boundary fence deemed by Council to be a safety risk is to be relocated to the correct alignment prior to issuing a Subdivision Certificate. Any road widening deemed necessary following submission of the plan shall be dedicated at no cost to Council.

[PSC0945]

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

[PSC1165]

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

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

[PSC1175]

15. Prior to the issuing of the subdivision certificate the applicant is to obtain an approval to operate the on-site sewage management facility on proposed Lot 2. In the event of more than one on-site sewage management facility, individual approvals to operate are required for each on-site sewage management facility. An approval to operate is issued under Section 68 of the *Local Government Act 1993*, and must be obtained from Council.
16. Prior to the issuing of the subdivision certificate the applicant is to provide a written statement regarding the suitability of proposed Lot 1 to accommodate an on-site sewage management facility. The statement is to be prepared by a suitably qualified on-site sewage management design and assessment consultant.

[PSCNS01]

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

1. The development proposal is to comply with the subdivision layout identified on the drawing prepared by NC White and Associates numbered 21047DE/1B, dated 17 June 2013.

The Motion was **Carried**

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

---

**27 [PR-CM] Development Application DA13/0115 for a Two Lot Leasehold Subdivision at Lot 17 DP 833570 Nos. 26-74 Chinderah Bay Drive, Chinderah**

**647**

**Cr G Bagnall**  
**Cr M Armstrong**

**RESOLVED** that Development Application DA13/0115 for a two lot leasehold subdivision at Lot 17 DP 833570 Nos. 26-74 Chinderah Bay Drive, Chinderah 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 WS\_PLHD\_1980\_01 (Proposed Leasehold Subdivision) prepared by Planit Consulting and dated December 2012, except where varied by the conditions of this consent.

[GEN0005]
2. The subdivision is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications.

[GEN0125]
3. 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. No preferred koala feed trees (*Eucalyptus robusta*, *Eucalyptus tereticornis*, *Eucalyptus microcorys* and *Eucalyptus propinqua*) may be cleared without specific approval of the General Manager or delegate.

[GENNS01]

5. The applicant is advised that the two lot subdivision associated with DA13/0115 will have the effect of extinguishing any existing dwelling entitlement on existing lot 17 DP 833570 / proposed lot 1 and the existing dwelling shall have to rely on existing use rights within proposed Lot 1.

[GENNS02]

6. 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.

In this regard the applicant is required to construct a sewer service for proposed Lot 2 via construction of a sewer rising main (SRM) within Waugh Street, generally in accordance with the 'Sewer Concept Plan P.15.56 / Sk1' by Cozens Regan Williams Prove submitted to Council on 18.9.2013. Further, the applicant is required to submit appropriate applications to Council for approval as follows:

- a. A 'Private Ejection Pump' form;
- b. A 'Connection to Sewer' form;
- c. A Trade Waste Application form.

[GENNS03]

7. Please note that Section 64 Developer Contributions have been applied to this Development Application to ensure that proposed Lot 2 has access to services. The Section 96 application to modify the consent (DA04/1166.04) in association with the truck storage depot will have additional Section 64 Developer Contributions payable to cater for the land use.

[GENNS04]

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

8. The proponent shall accurately locate and identify any existing sewer main (including rising mains), stormwater line or other underground infrastructure within or adjacent to the site and in the vicinity of the proposed SRM works. Council shall be advised of the location and depth of any such infrastructure 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]

#### **DURING CONSTRUCTION**

9. 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]

10. 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]

11. 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]

12. 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]

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

13. Prior to issue of a subdivision certificate, all works/actions/inspections etc required by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[PSC0005]

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

Prior to the issue of a Subdivision Certificate, all Section 64 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 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 @ \$12575 per ET	\$12575
Sewer Kingscliff:	1 ET @ \$6042 per ET	\$6042

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.

[PSC0165]

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

The bond shall be based on 5% of the value of the sewer rising main works (or minimum value as tabled in Council's fees and charges current at the time of payment - currently \$1910) which will be held by Council for a period of 6 months from the date on which the plan of subdivision is registered.

It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

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

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

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

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

[PSC0735]

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

[PSC0825]

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

[PSC0830]

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

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

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

[PSC0835]

20. Submit to Council's Property Officer for approval an appropriate plan indicating the street/road address number to both proposed and existing lots. In accordance with clause 60 of the Surveying and Spatial Information Regulation 2012 the Plan of Subdivision (Deposited Plan) shall show the approved street address for each new lot in the deposited plan.

[PSC0845]

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

The following information must accompany an application:

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

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

[PSC0885]

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

[PSC0925]

23. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to Proposed Lot 2 in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications and the Construction Certificate approval.

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

[PSC1115]

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

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

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

[PSC1175]

25. Prior to the issuing of the subdivision certificate, the applicant is to submit a potential groundwater contamination assessment that considers previous potentially contaminating activities at the depot. The potential groundwater contamination assessment is to be to the satisfaction of the General Manager or his delegate.

Prior to the issuing of the subdivision certificate, the applicant is to demonstrate that all conditions of development consent DA04/1166.04 have been complied with.

[PSCNS01]

26. Prior to the issue of the Subdivision Certificate for this Development Application (DA13/0115), the relevant Section 64 Developer Contributions for both this Development Application and for the Section 96 Modification for the truck storage depot (DA04/1166.04) must have been paid to Council.

27. Prior to the issue of the Subdivision Certificate, the applicant is to submit a separate application for sewer connection to Council. Proposed Lot 2 is not to be connected to sewer until the relevant application has been approved by Council. The submitted application shall include details of (but not limited to): the proposed route of the sewer; proposed earthworks and construction details; and details of vegetation removal if required.

[PSCNS01]

28. Prior to the issue of a Subdivision Certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works completed under the Sec.68 sewer approval for the sewer rising main works.

[PSCNS02]

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

1. The development proposal is to comply with the subdivision plan, titled Proposed Leasehold Subdivision, drawing number WS\_PLHD\_1980\_01, dated December 2012.

### **General Advice - Consent Authority to Note**

2. This Bush Fire Safety Authority is based on the requirement that proposed leasehold lot 2 is used as a transport depot that does not include any residential or habitable land use.

The Motion was **Carried**

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

---

**28 [PR-CM] Development Application D90/0436.07 for an amendment to Development Consent D90/0436 for the Erection of a Tavern and Nine Shops**

**648**

**Cr M Armstrong  
Cr G Bagnall**

**RESOLVED** that Development Application D90/0436.07 for an amendment to Development Consent D90/0436 for the erection of a tavern and nine shops at Lot 171 DP 629328 No. 28-40 Overall Drive, Pottsville be deferred to a Workshop.

The Motion was **Carried**

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

---

**29 [PR-CM] Section 82A Review of Development Application DA12/0498 for the Demolition of Existing Dwelling and Construction of a Three Storey Dwelling at Lot 1 DP 214686 No. 4 Marine Parade, Kingscliff**

Cr C Byrne declared a *Non Significant, Non Pecuniary* Interest in Item 29. The nature of the interest is that Cr C Byrne is a neighbour of the applicant. Cr C Byrne will manage the Interest by vacating the Chamber and taking no part in the discussion or voting on the matter.

**649**

**Cr M Armstrong  
Cr G Bagnall**

**PROPOSED** that:

1. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:
  - (a) personnel matters concerning particular individuals (other than councillors).
2. The Section 82A Review of Development Application DA12/0498 for the demolition of existing dwelling and construction of a three-storey dwelling at Lot 1 DP 214686 No. 4 Marine Parade, Kingscliff be refused for the following reasons:
  1. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated that compliance with the development standard as being unreasonable or unnecessary in accordance with State Environmental Planning Policy No. 1 – Development Standards:
    - The impact of the additional storey incorporating a roof top deck has not been adequately justified.

2. Pursuant to Section 79C(1)(b) the development proposal has not demonstrated acceptable impacts on the built environment:
  - The development is considered to have negative impact on the amenity of the adjoining property to the southwest.
3. Pursuant to Section 79C(1)(a)(iii) the development has not demonstrated compliance with Tweed Shire Council Development Control Plan 2008 Section A1 in particular:
  - The development proposal exceeds the nine (9) metre height limit.

The Motion was **Lost**

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

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

**ABSENT. DID NOT VOTE - Cr K Milne, Cr C Byrne**

650

**Cr W Polglase**

**Cr P Youngblutt**

**RESOLVED** that Council supports in-principle approval and conditions be brought forward to the November Council meeting.

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

**AGAINST VOTE - Cr G Bagnall**

**ABSENT. DID NOT VOTE - Cr K Milne, Cr C Byrne**

Cr C Byrne has returned from temporary absence at 06:16 PM

---

**30 [PR-CM] Application for a Site Compatibility Certificate for Seniors Housing Development Lot 13 DP 868620, Cudgen Road Cudgen**

651

**Cr G Bagnall**

**Cr M Armstrong**

**RESOLVED** that Council, in respect of the Application for a Site Compatibility Certificate (SCC) for Seniors Housing Development on premises Lot 13 DP 868620 Cudgen Road, Cudgen, writes to the NSW Department of Planning and Infrastructure seeking additional time to review the SCC documentation, and provide more detailed comment through a further report to Council, outlining the broader strategic planning implications of this development.

The Motion was **Carried**

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

---

28