



MINUTES

PLANNING COMMITTEE MEETING

Tuesday 27 January 2009

Mayor: Cr J van Lieshout

**Councillors: Cr B Longland, Deputy Mayor
Cr D Holdom
Cr K Milne
Cr W Polglase
Cr K Skinner
Cr P Youngblutt**

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IN ATTENDANCE

Cr Joan van Lieshout (Mayor), Cr Barry Longland (Deputy Mayor), Cr Dot Holdom, Cr Katie Milne, Cr Warren Polglase, Cr Kevin Skinner, Cr Phil Youngblutt

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

REPORTS THROUGH GENERAL MANAGER

REPORTS FROM DIRECTOR PLANNING & REGULATION

P1 [PR-PC] Development Application DA07/1399 for a two lot subdivision including a special purpose allotment and associated telecommunications facilities and tower at Lot 3 DP 1000385, Fraser Drive, Tweed Heads South

The following persons addressed the meeting of the Planning Committee on this matter:

Mr Kevin Maloney
Mr Steven Bullock

P 1 COMMITTEE DECISION:

Cr D Holdom
Cr P Youngblutt

RECOMMENDED that Development Application DA07/1399 for a two lot subdivision including a special purpose allotment and associated telecommunications facilities and tower at Lot 3 DP 1000385, Fraser Drive Tweed Heads South be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects, and the following Plans and report;
 - Drawing No. 16465 D prepared by B & P Surveys dated 8/11/2007,
 - Drawing No. Q107242. Locality Plan Sht S1 Index prepared by National Infrastructure Services dated 02/02/2007,
 - Drawing No. Q107242. Site Setout Plan Sht No. S2 Index prepared by

National Infrastructure Services dated 02/02/07.

- Drawing No. Q107242. South East Elevation Sht No. S3 Index prepared by National Infrastructure Services dated 02/02/07.
- Drawing No. Q107242. Aerial Photo Locality Plan Sht No. S7 Index prepared by National Infrastructure Services dated 02/02/07.
- National Standard 3.1 Shelter Sht No. E1 Index prepared by National Infrastructure Services dated 02/02/07.
- Summary of estimated RF EME Levels around the proposed mobile phone base station at origin of Fixed Point Radial, Tweed Heads South West NSW. NSA Site NO. 2486007. Dated 15/1/08.

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

[GEN0115]

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

[GEN0125]

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

[GEN0135]

6. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -

- (a) Construction of an all weather access, including bitumen sealing from the edge of the existing Frasier Drive bitumen carriageway to the property boundary in accordance with Council's Development Control Plan, Part A5 - Subdivision Manual and Council's Development Design and Construction Specifications.

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
- Drainage
- Sediment and erosion control plans

- Location of all services/conduits
- Traffic control plan

[GENNS01]

7. Erosion and Sediment Control shall be provided and maintained in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[GENNS02]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0005]

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

- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and

- (b) the person having the benefit of the development consent has:

- (i) appointed a principal certifying authority for the building work, and
- (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and

- (c) the principal certifying authority has, no later than 2 days before the building work commences:

- (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
- (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

- (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:

- (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
- (ii) notified the principal certifying authority of any such appointment, and
- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

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

[PCW0225]

11. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, 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]

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

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

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

[PCW0985]

DURING CONSTRUCTION

13. All proposed works are to be carried out in accordance with the conditions of development consent, approved s138 Application, drawings and specifications.

[DUR0005]

14. Construction 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 7.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

15. All 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.

L10 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.

L10 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]

16. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

17. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

18. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

19. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.

[DUR0415]

20. 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]

21. 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.

[DUR0995]

22. All work associated with this approval is to be carried out so as not to impact on neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -
- Noise, water or air pollution
 - Minimise impact from dust during filling operations and also from construction vehicles
 - No material is removed from the site by wind
- [DUR1005]
23. 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]
24. 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 adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- [DUR1875]
25. 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]
26. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.
- [DUR1945]
27. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
- [DUR2185]
28. Construction of an all-weather access to proposed Lot 5.
- [DUR0585]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

29. 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]
30. On completion of work a certificate signed by a practising structural engineer is to be submitted to the Principal Certifying Authority to certify the structural adequacy of the structure.
- [POC0805]
-

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

[POC1055]

USE

32. 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]

33. 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]

34. 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]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

35. 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]

36. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[PSC0725]

37. 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]

38. 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 over ALL public services/infrastructure on private property.

(b) Right of Carriageway (min 5 wide) over the new access servicing proposed Lot 5.

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]

39. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Council within three months of registration of the Subdivision Certificate in accordance with the Survey Practices Regulation.

[PSC0865]

40. 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 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]

41. 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 within the vicinity of the proposed access.

Any identified encroaching road boundary fence is to be relocated (if deemed necessary by Council) to the correct alignment by the applicant, at the applicant's expense, 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]

42. The production of written evidence from the local electricity supply authority certifying that the reticulation of overhead electricity has been completed.

[PSC1175]

43. 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 required under Section 138 of the Roads Act 1993.

[PSCNS01]

GOLD COAST AIRPORT CONDITIONS

44. The building may be erected up to a maximum height of 71.2m AHD at the location described.
45. No further additions may be made to the tower, including antennae, aerials or other appurtenance which exceed the maximum height of 71.2m AHD
46. Separate approvals must be sought for all cranes and other equipment used in the construction of the tower where any such structure would exceed the tower's maximum approved height of 71.2m AHD.
47. This advice refers only to the height of the tower as applicable to aircraft operations and does not relieve the proponent of the responsibility for obtaining the normal permits.
48. The tower is to be obstacle lit in accordance with Part 139 of the Manual of Standards (MOS) issued by CASA

Under section 9.4 of the MOS Part 139, the tower must be lit with steady medium intensity obstacle lighting;

The obstacle lighting is to be operational at night and during periods of low visibility;

The obstacle lighting is to remain within the maximum approved height of 71.2m AHD;

All obstacle lights are to be maintained in full working order by the proponent at all times.
49. The proponent is to notify GCA immediately upon completion of construction of the tower, and at that time must notify GCA of the finished height in AHD and the placement of obstacle lighting, so that GCA can update the relevant plans and records for the airport.

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

1. Access shall comply with section 4.1.3 (2) of *Planning for Bush Fire Protection 2006*.

AMENDMENT 1

Cr K Milne
Cr K Skinner

PROPOSED that:-

1. The Development Application DA07/1399 for a two lot subdivision including a special purpose allotment and associated telecommunications facilities and

tower at Lot 3 DP 1000385, Fraser Drive Tweed Heads South be deferred until:

- i. A comprehensive telecommunications corridor study for the Tweed is completed; and
 - ii. A survey has been carried out in the areas to be affected by new installations of telecommunications facilities to ascertain:
 - a) if those communities wish to receive mobile coverage, and
 - b) whether they would they agree to a base station within 55/100 metres of their homes.
2. Council investigates the possibility that all new major Greenfield developments to provide coverage for telecommunications within the development site or this lack of provision to be listed of the section 149 certificate and widely publicised.

Amendment 1 was **Lost**

FOR VOTE - Cr K Skinner, Cr K Milne, Cr J van Lieshout

AGAINST VOTE - Cr P Youngblutt, Cr D Holdom, Cr B Longland, Cr W Polglase

AMENDMENT 2

Cr J van Lieshout

Cr K Milne

PROPOSED that the Development Application DA07/1399 for a two lot subdivision including a special purpose allotment and associated telecommunications facilities and tower at Lot 3 DP 1000385, Fraser Drive Tweed Heads South be deferred until a comprehensive telecommunications corridor study for the Tweed is completed and reported to Council.

Amendment 2 was **Lost**

FOR VOTE - Cr K Skinner, Cr K Milne, Cr J van Lieshout

AGAINST VOTE - Cr P Youngblutt, Cr D Holdom, Cr B Longland, Cr W Polglase

The Motion was Carried

FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr B Longland, Cr W Polglase

AGAINST VOTE - Cr K Skinner, Cr K Milne, Cr J van Lieshout

P2 [PR-PC] Development Application DA08/0611 for Development of Seven (7) Manufactured Home Sites within an existing Manufactured Home Estate at Lot 1 DP 860569, No. 192 Piggabeen Road, Tweed Heads West

P 2 COMMITTEE DECISION:

Cr D Holdom

Cr B Longland

RECOMMENDED that: -

- A. State Environmental Planning Policy No. 1 objection to the 50m setback to designated roads provision of Clause 24 of the Tweed LEP 2000 be approved and the concurrence of the Director-General of the Department of Planning be assumed.
- B. Development Application DA08/0611 for a development of seven (7) manufactured home sites within an existing manufactured home estate at Lot 1 DP 860569, No. 192 Piggabeen Road Tweed Heads West be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 1.0 Locality and Site Plan and Plan No. 3 Proposed Development Layout prepared by Opus Qantec McWilliam and dated May 2008, 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 modifications to any existing public utilities situated within or adjacent to the subject property.

[GEN0135]

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

[GEN0265]

- 5. The sites are not to be less than 130m² in area.

[GENNS01]

- 6. A new community map is to be supplied at the conclusion of the project reflecting the additional sites.

[GENNS02]

- 7. All Sites are to be clearly delineated and numbered.

[GENNS03]

8. That the development is carried out in accordance with Part 2, Division 3 of the Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings Regulation 2005.

[GENNS04]

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

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

[GENNS05]

10. The existing vegetation along the frontage of the site is to be maintained to screen the development.

PRIOR TO COMMENCEMENT OF WORK

11. 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 owner 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]

12. 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, 3rd 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]

13. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill nature of material, proposed use of material and confirmation 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 commencement of works.

[PCW0375]

14. 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.

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]

15. 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]

16. 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 DSP3: 5.6 ET @ \$10346.9 \$57,942.60

Sewer Banora: 7 ET @ \$4972.1 \$34,804.70

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.

[PCWNS02]

17. 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 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: | | |
| 27.3 Trips @ \$1797 | | \$49,058 |
| S94 Plan No. 4 | | |
| Sector4_4 | | |
| (b) Open Space (Casual): | | |
| 4.5808 ET @ \$570 | | \$2,611 |
| S94 Plan No. 5 | | |
| (c) Open Space (Structured): | | |
| 5.467 ET @ \$653 | | \$3,570 |
| S94 Plan No. 5 | | |
| (d) Shirewide Library Facilities: | | |
| 4.5787 ET @ \$688 | | \$3,150 |
| S94 Plan No. 11 | | |
| (e) Bus Shelters: | | |
| 4.3078 ET @ \$26 | | \$112 |
| S94 Plan No. 12 | | |
| (f) Eviron Cemetery: | | |
| 4.3078 ET @ \$131 | | \$564 |
| S94 Plan No. 13 | | |
| (g) Emergency Facilities (Surf Lifesaving): | | |
| 4.585 ET @ \$200 | | \$917 |
| S94 Plan No. 16 | | |

- (h) Extensions to Council Administration Offices
& Technical Support Facilities
4.5766 ET @ \$1996.8 \$9,138.55
S94 Plan No. 18
- (i) Regional Open Space (Casual)
4.5766 ET @ \$855 \$3,913
S94 Plan No. 26
- (j) Regional Open Space (Structured):
4.5752 ET @ \$2327 \$10,646
S94 Plan No. 26

[PCWNS03]

18. All imported fill material shall be from an approved source. Prior to the issue of any Section 68 approval by Council, 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 approval.

Separate approval of Council is required 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

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

19. 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 filing on local drainage. Detailed engineering plans of fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

20. Erosion and Sediment Control shall be provided in accordance with the following:

- (a) The Section 68 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".

[PCWNS04]

DURING CONSTRUCTION

21. All proposed works are to be carried out in accordance with the conditions of development consent, any Section 68 approval(s) issued by Council, drawings and specifications.

[DUR0005]

22. Construction 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 7.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

23. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

A. Short Term Period - 4 weeks.

L10 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.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0215]

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

[DUR0445]

25. All lots must be graded to prevent the ponding of surface water and be adequately vegetated to prevent erosion from wind and/or water to the satisfaction of the General Manager or his delegate.

[DUR0745]

26. During filling operations,

- 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.
- All fill and cut batters shall be contained wholly within the subject land.

- 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 A5 – Subdivision Manual and Development Control Plan, Part A14 – Cut and Fill on Residential Land to the satisfaction of the Principal Certifying Authority.

and upon completion,

- all topsoil to be respread and the site to be grassed and landscaped including battered areas.

[DUR0755]

27. 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 Council upon completion.

[DUR0795]

28. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.

[DUR0815]

29. 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]

30. 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]

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

- Noise, water or air pollution
- Minimise impact from dust during filling operations and also from construction vehicles
- No material is removed from the site by wind

[DUR1005]

32. If excavations extend below the depth of fill material, then 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]
33. The habitable floor area of any future building is to be at a level not less than RL 3.1m AHD.
[DUR1435]
34. 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 adopted Design and Construction Specifications prior to any use or occupation of the site.
[DUR1875]
35. The 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]
36. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
[DUR2185]
37. 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]
38. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, and external drainage prior to backfilling.
 - (b) completion of work and prior to occupation of the building.
- [DUR2485]
39. 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]

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

[DUR2505]

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

[DUR2515]

42. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

[DUR2545]

43. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-

- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50⁰C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR2555]

44. Should operations uncover evidence of Aboriginal heritage of the site all work is to cease immediately and the National Parks and Wildlife Service and the Local Aboriginal Land Council are to be contacted. No work is to recommence until the National Parks and Wildlife Service permits such works to continue. In the event the site is subject to a Native Title Claim the relevant claimant must also be contacted.

[DURNS02]

45. The land is to be filled to a level no less than the design flood level of RL 2.6m AHD.

[DURNS03]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

46. It is a condition of an approval to install, construct or alter a sewage management facility that the facility is not used (or used as altered) until the Council has given the applicant for approval notice in writing that it is satisfied that the facility has been installed, constructed or altered in substantial accordance with the approval.

A certificate certifying compliance with the above is to be submitted to Council by the licensed plumber on completion of works.

Reason: Mandatory condition, clause 34 of the Local Government (General) Regulation 2005.

[POC1025]

47. Prior to the occupation of any building a final inspection report is to be obtained from Council to verify the satisfactory installation of all plumbing and drainage and the on-site sewage management facility.

[POC1035]

48. Landscape works shall be completed in accordance with the landscape plan.

[POCNS01]

49. Prior to issue of occupation certificate all dwelling site shall be clearly numbered.

[POCNS02]

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

1. At the commencement of building works the property around the building shall be managed as follows:
 - a) East for a distance of 20 metres as an inner protection area; and
 - b) South for a distance of 20 metres as an inner protection area, as outlined within section 4.1.3 and appendix 5 of Planning for bushfire Protection 2006 and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
2. Water, electricity and gas are to comply with section 4.1.3 of *Planning for Bushfire Protection 2006* for the existing and proposed development.
3. New construction shall comply with Australian Standard AS3959-1999 '*Construction of buildings in bushfire-prone areas*' Level 1 for proposed future buildings.
4. Landscaping to the site is to comply with the principles of Appendix 5 of *Planning for Bushfire Protection 2006* for the existing and proposed development. In this regard the following landscaping principles are to be incorporated into the development:
 - a) Suitable impervious areas being provided immediately surrounding the building such as courtyards, paths and driveways.
 - b) Grassed areas/mowed lawns/or ground cover plantings being provided in close proximity to the building.
 - c) Restrict planting in the immediate vicinity of the building which may over time and if not properly maintained come into contact with the building.

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

P3 [PR-PC] Development Application DA08/0975 for a Dwelling & Swimming pool at Lot 8 Section 1 DP 31209, No. 2 Cypress Crescent, Cabarita Beach

P 3 COMMITTEE DECISION:

**Cr D Holdom
Cr P Youngblutt**

RECOMMENDED that: -

1. State Environmental Planning Policy No. 1 objection to Clause 32B of the North Coast Regional Environmental Plan regarding overshadowing be supported and the concurrence of the Director-General of the Department of Planning be assumed.
2. Development Application DA08/0975 for a dwelling & swimming pool at Lot 8 Section 1 DP 31209, No. 2 Cypress Crescent, Cabarita Beach be approved subject to the following conditions: -

GENERAL

1. 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]
2. The proposed future demolition of the existing dwelling and pool must be the subject of a separate development consent.
[GEN0035]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0115]
4. New construction is to comply with Appendix 3 – Site Bush Fire Attack Assessment of *Planning for Bush Fire Protection 2006*. In this regard the following design standards for construction are to be incorporated into the development:
 - (a) New construction shall comply with Australian Standard AS3959-1999 'Construction of buildings in bushfire-prone areas' Level 2. New construction of the southern facade shall comply with Australian Standard AS3959-1999 'Construction of buildings in bushfire-prone areas' Level 1.
5. Roofing shall be gutterless or have leafless guttering and valleys to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5.
6. Roller doors, tilt-a-doors and the like shall be sealed to prevent the entry of embers into the building.
7. All fencing shall be constructed from non-combustible materials.

8. At the commencement of building works 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*'.
9. Water, electricity and gas are to comply with section 4.1.3 of *Planning for Bush Fire Protection 2006*.
10. To aid in fire fighting activities, unobstructed pedestrian access to the rear of the property shall be provided and maintained at all times.
11. The proposed rendered concrete block fence within Council Building line, western and eastern side boundaries is to have a maximum height of 1.5metres.

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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 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

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

Where Council is requested to issue a construction certificate for civil works associated with this consent, the abovementioned works can be incorporated as part of the cc application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

[PCC1145]

14. Prior to issue of the construction certificate engineering details and certification are to be provided to the satisfaction of Principal Certifying Authority confirming that the footings for the dwelling and pool have been designed to withstand the likely impacts of coastal erosion and associated reduced bearing capacities for the 50 year erosion escarpment line as identified in the "Tweed Shire Coastline Hazard Definition Study" prepared by WBM Oceanics Australia dated 6th September 2001 and on Tweed Shire Council coastal erosion hazard maps.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0215]

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

[PCW0225]

17. Residential building work:

- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:

- * in the name and licence number of the principal contractor, and
- * the name of the insurer by which the work is insured under Part 6 of that Act,

- (ii) in the case of work to be done by an owner-builder:

- * the name of the owner-builder, and
- * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

18. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (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]

19. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and

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

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

[PCW0255]

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

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

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

[PCW0985]

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

[PCW1005]

DURING CONSTRUCTION

22. Construction 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 7.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

[DUR0245]

24. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

25. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

26. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

27. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.

[DUR0415]

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

[DUR0445]

29. 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 A5 - Subdivision Manual and Development Control Plan, Part A14 - Cut and Fill on Residential Land to the satisfaction of the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0835]

30. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.

[DUR0905]

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

- Noise, water or air pollution
- Minimise impact from dust during filling operations and also from construction vehicles
- No material is removed from the site by wind

[DUR1005]

32. 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]
33. 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 adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- [DUR1875]
34. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.
- [DUR1945]
35. Swimming Pools (Building)
- (a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 - 2007. (Refer Council's web site www.tweed.nsw.gov.au)
 - (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
 - (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
 - (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.
- [DUR2075]
36. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.
- [DUR2085]
37. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
- [DUR2185]
38. 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]

39. 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]

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

[DUR2515]

41. 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]

42. 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:-

- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50⁰C 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]

43. No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main.

[DUR2705]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

44. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

45. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

The street number is to be on a white reflective background professional painted in black numbers 100mm high.

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0265]

46. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

USE

47. 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]

48. The building is to be used for single dwelling purposes only.

[USE0505]

49. The keeping of dogs, cats or other animals on the property is to be in accordance with any relevant 88B Instrument requirements.

[USE1245]

50. Swimming Pools (Building)

(a) It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).

(b) The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).

(c) Warning notices required under Part 3 of the Swimming Pool Regulations 2008 shall be maintained at all times.

[USE1295]

51. The swimming pool is not to be used for commercial purposes without prior Development Consent.

[USE1305]

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

P4 [PR-PC] Development Application DA08/1102 for a Storage Shed at Lot 6 DP 711121, No. 7 Dixons Road, Burringbar

P 4 COMMITTEE DECISION:

Cr W Polglase
Cr P Youngblutt

RECOMMENDED that:

1. Council assumes the concurrence of the Director General of the Department of Planning for the approval of the State Environmental Planning Policy No. 1 objection to vary the 30 metre setback requirement.
2. Development Application DA08/11102 for a dwelling at Lot 6 DP 711121 No. 7 Dixons Road, Burringbar be approved subject to the following conditions:

GENERAL

1. 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]

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

[GEN0115]

PRIOR TO COMMENCEMENT OF WORK

3. 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-building, 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]

4. 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]

5. 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]

6. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the site is prohibited.

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

[PCW0255]

DURING CONSTRUCTION

7. All proposed works are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.
- [DUR0005]
8. Construction 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 7.00pm
- 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]
9. The wall and roof cladding is to have low reflectivity where it would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.
- [DUR0245]
10. 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]
11. 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]

12. 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]

13. 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]

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

- Noise, water or air pollution
- Minimise impact from dust during filling operations and also from construction vehicles
- No material is removed from the site by wind

[DUR1005]

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

[DUR2185]

16. All roofwaters are to be disposed of through properly jointed pipes to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2.

[DUR2335]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

17. 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]

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

[POC1055]

Council approved landscaping shall be completed prior to the release of the occupation certificate. Landscaping shall aim to achieve a privacy buffer between the shed and Tweed Valley Way and must be maintained at all times to the satisfaction of the General Manager or delegate.

[POCNS01]

USE

19. The building is not to be used for any habitable commercial or industrial purpose.

[USE0455]

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

- P5 [PR-PC] Part V Application - PTV08/0001 for an Upgrade of the Banora Point Water Reclamation Plant & the Demolition & Reconstruction of the Tweed Heads West Water Reclamation Plant at Lot 482 DP 591546; Lot 2 DP 591548; Lot 1 DP 1011625, Parkes Drive, Tw**

P 5 COMMITTEE DECISION:

Cr D Holdom
Cr B Longland

PROPOSED that Part V application - PTV08/0001 for an upgrade of the Banora Point Waste Water Treatment Plant at Lot 482 DP 591546 & Lot 2 DP 591548, Enterprise Avenue Tweed Heads South & the demolition and reconstruction of the Tweed Heads West Waste Water Treatment Plant at Lot 1 DP 1011625, Parkes Drive, Tweed Heads West be approved subject to the following conditions: -

1. The development shall be completed in accordance with the *Banora Point and Tweed Heads West WRP Reclaimed Water Management Strategy Environmental Impact Statement* prepared by GHD and dated August 2005, except where varied by the conditions of this consent.
[GEN0005]
2. Prior to commencement of work, separate construction approvals shall be obtained for the works proposed by this approval at the Banora Point site and the Tweed Heads West site .
[GEN0185]
3. Within 12 months of the date of this approval, Council's water and sewer fund will allocate funds sufficient to commence a program of works towards Terranora and Cobaki catchment rehabilitation, including riparian buffer and stormwater works, as detailed in the EIS.
[GENNS01]
4. No excavation or works shall be undertaken within the area marked as "Grit Burial Waste" on Figure 6.2 *Existing Layout Site Map of Banora Point WRP* of the Environmental Impact Statement until such time as a Site Contamination Assessment has been undertaken by a suitably qualified person and a Remediation Strategy, if appropriate, has been formulated and approved by the Director of Planning & Regulation.
[GENNS02]

5. Environmental Management Plans are to be prepared for the construction and operational phases of the development. In this regard the Environmental Management Plans are to be prepared in accordance with the Environmental Impact Statement and are to detail the proposed mitigation measures, modelling and monitoring programs.

[GENNS03]

6. Council shall continue to investigate options for effluent reuse and shall implement identified viable options.

[GENNS04]

7. Where practical, all critical facilities or equipment susceptible to water damage should be located at or above RL 3.1m AHD to provide 0.5m freeboard, as required for habitable development in the area.

[GENNS05]

8. A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 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]

9. Prior to the issue of Construction Approval the following detail in accordance with Councils adopted Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

(a) 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, Country Energy and Telstra)

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]

10. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Principal Certifying Authority PRIOR to the issue of a construction certificate.
-

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

[PCC1065]

11. Permanent stormwater quality treatment shall be provided to treat runoff from new carparking, driveway and similar hardstand areas exposed to gross pollutants, sediments and nutrients in accordance with the following:
 - (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared 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. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.
 - (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]

12. 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]

13. Non-structural (effluent and sludge storage ponds) and structural infrastructure shall be constructed so as to prevent groundwater inflows to those structures or discharges/infiltration to groundwater.

[PCCNS01]

14. All imported fill material shall be from an approved source and free of contaminants.

[PCW0375]

15. Prior to the excavation of soils on the site an Acid Sulfate Soils and/or Dewatering Management Plan, if applicable, shall be submitted to the Director Planning & Regulation for approval.

[PCWNS01]

16. Prior to the commencement of work, detailed site investigation shall be carried to determine whether acid sulfate soils are present on the site and whether groundwater will be intercepted as a result of the proposed redevelopment.

[PCWNS02]

17. A detailed environmental management plan shall be submitted to and approved by Council prior to the commencement of any decommissioning works on the existing Tweed Heads West Waste Water treatment Plant. All works shall comply with the approved plan.

[PCWNS03]
18. Should any decontamination or remediation works be necessary on the existing Tweed Heads West Waste Water Treatment Plant site, then those works shall not be commenced without the separate prior approval of Council.

[PCWNS04]
19. Irrigation of effluent shall not occur without the prior written approval of Council.

[PCWNS05]
20. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans.

[DUR0015]
21. The roof cladding is to be of a non-reflective nature. Colorbond shades classed as "very light" by the BCA are not approved.

[DUR0245]
22. Operation times and noise attenuation shall be undertaken in accordance with Section 10.4.6 of the Environmental Impact Statement submitted with the application.

[DURNS02]
23. Odour from the Plant shall not be permitted to impact the amenity of any premises. Should odour from the plant unreasonably impact the amenity of any premises then a odour report shall be prepared and submitted for the consideration of the Director Planning & Regulation. Where directed in writing by the Director, amelioration measures identified in the odour report shall be implemented as directed in writing.

[DURNS03]
24. The Plant shall be operated in accordance with the license or operational requirements of the NSW Department of Environment and Climate Change.

[POCNS01]
25. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.

[PTV0030]
26. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.

[PTV0050]
27. 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.

L10 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.

L10 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.

[PTV0060]

AMENDMENT

Cr J van Lieshout
Cr W Polglase

RECOMMENDED that this item be deferred to the meeting of 17 February 2009 to allow for a workshop with Councillors and Council officers.

The Amendment was **Carried**

FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr K Milne, Cr W Polglase, Cr J van Lieshout

AGAINST VOTE - Cr D Holdom, Cr B Longland

The Amendment on becoming the Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr K Milne, Cr W Polglase, Cr J van Lieshout

AGAINST VOTE - Cr D Holdom, Cr B Longland

P6 [EO-PC] Proposed Changes to Section 94 Developer Contributions by NSW Government

P 6 COMMITTEE DECISION:

**Cr W Polglase
Cr D Holdom**

RECOMMENDED that:-

1. In accordance with NSW Department of Planning Circular PS 09-001 *Review of local contributions section 94E Direction*, dated 23 January 2009,
 - (a) by 2 February 2009, Council give notice, to the Local Contributions Review Panel, of Council's intention to seek approval to impose contributions over the maximum amount specified in the Minister's Section 94E Direction dated 13 January 2009. This notice to is to include copies of relevant contributions plans and a list of current contribution rates.
 - (b) by 2 March 2009, Council make a formal written request to the Minister seeking approval to impose contributions over the maximum amount specified in the Section 94E Direction.

2. Council, through the Local Government and Shires Association:-
 - (a) Seeks a commitment from the NSW Government to support the s94 user pays system for financing infrastructure required by new development and

 - (b) Seeks a further commitment from the NSW Government to cease undermining the s94 Contributions system with ongoing and continuous "reform" proposals, so that councils will have the confidence to make long term investment decisions to provide the essential up front infrastructure that is necessary to enable "greenfields" development to proceed.

3.
 - (a) Council advises the Local Government and Shires Association that Tweed Shire Council is impacted by the \$20,000 contributions cap and wishes to register for attendance at a meeting in this regard to be arranged by the Association.

 - (b) Council authorises attendance of Council representatives at the above meeting.

4. Council raises this issue at the Division A conference of the Shires Association to be held 12 February 2009.

FOR VOTE - Unanimous

P7 [EO-PC] Tweed Road Contribution Plan - Adoption of Version 5.1**P 7 COMMITTEE DECISION:**

Cr K Skinner
Cr D Holdom

RECOMMENDED that Council:-

1. In accordance with Clause 31 of the Environmental Planning & Assessment Regulations 2000, approves Draft Version 5.1 of Section 94 Contribution Plan No. 4 Tweed Road Contribution Plan amended as shown in the attached addendum to this report, to:-
 - (a) repeal and replace the existing version; and
 - (b) amend the Works Schedule at Schedule 5 by adding an additional item, 29a: being:-

29a. Kennedy Drive Four-laning, Total Cost \$3,222,000
2. Gives Public Notice in the Tweed Link of Council's decision specifying that Version 5.1 of the Plan (CP 4) comes into effect on the date of the notice.

FOR VOTE - Unanimous

P8 [PR-PC] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards**P 8 COMMITTEE DECISION:**

Cr W Polglase
Cr K Skinner

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

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

P9 [PR-PC] Draft Local Environmental Plan 2008 - Public Exhibition

Mr Brian Ring addressed the meeting of the Planning Committee on this matter.

P 9 COMMITTEE DECISION:**Cr W Polglase****Cr B Longland****RECOMMENDED** that:-

1. Council endorses the public exhibition of the Stage 1 draft Tweed Local Environmental Plan 2008, as conditionally certified by the Department of Planning, for a period of 60 days; and
2. A report be submitted back to Council following the completion of the public exhibition which responds to any submissions.
3. Arising from the recent presentation to Councillors by the Department of Planning on the preparation of new planning controls for the Tweed Heads area, that Council notes the Department of Planning's desire to release a package of draft planning controls (including Vision, draft LEP, draft DCP and Civic Improvement Plan) in conjunction with the public exhibition of the Stage 1 Draft Tweed LEP, and endorses the "co-exhibition" approach, and delegates to the General Manager to undertake the relevant statutory actions to enable this process to occur. It should be pointed out that Council's approval of this recommendation is not an endorsement of the DOP's draft Tweed Heads planning controls per se, but rather approves that the documents be placed on public exhibition. A further report will be submitted to Council following the exhibition seeking a determination of whether or not to proceed with these plans.
4. Council organises a Workshop for Gales Holdings Land for councillors and relevant office staff prior to expiration of the exhibition period.
5. In addition to the six areas selected within the Shire, any other areas with major LEP changes will also receive information sessions.

FOR VOTE - Unanimous**P 10 COMMITTEE DECISION:****Cr J van Lieshout****Cr B Longland**

RECOMMENDED that the Planning Committee resumes in open Council under the Chairmanship of Cr J van Lieshout.

FOR VOTE - Unanimous

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