



TWEED
SHIRE COUNCIL

Mayor: Cr B Longland (Mayor)

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

Minutes

Planning and Regulation Reports **Ordinary Council Meeting** **Thursday 13 December 2012**

held at Murwillumbah Cultural and Civic Centre
commencing at 6.00pm

COUNCIL'S CHARTER

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

Tweed Shire Council has the following charter:

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

The Meeting commenced at 6.01pm.

IN ATTENDANCE

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

Also present were Mr David Keenan (General Manager), Mr Troy Green (Director Technology and Corporate Services), Mr Patrick Knight (Director Engineering and Operations), Mr Lindsay McGavin (Acting Director Planning and Regulation), Ms Jane Lofthouse (Acting Director Community and Natural Resources), Mr Fran Silk (Journalist), Mr Richard Adams (Manager Business and Economic Development), Mr Adam Faulkner (Waste Management Coordinator-attended for Items 18-27), (Mr Neil Baldwin (Manager Corporate Governance/Public Officer) and Mrs Meredith Smith (Minutes Secretary).

ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

725

Cr C Byrne
Cr B Longland

RESOLVED that Council notes that there are no Variations for November 2012 to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

5 [PR-CM] Delegation to Council of Functions under the Plumbing and Drainage Act 2012

726

Cr C Byrne
Cr P Youngblutt

RESOLVED that Council:

1. Accepts the delegation to enable Council to continue to undertake activities in relation to the regulation of on-site plumbing and drainage.
2. Executes the Instrument of Delegation under the Common Seal of Council.

The Motion was **Carried**

FOR VOTE - Unanimous

6 [PR-CM] Current Regulatory and Compliance Issues for Commercial Signage and Other Trading Activities Affecting Council's Public Footpath and Road Reserves

727

**Cr K Milne
Cr M Armstrong**

RESOLVED that:

1. The report on current regulatory and compliance issues for commercial signage and other trading activities affecting Council's public footpath and road reserves be received and noted; and
2. Council endorses that this report form the basis for discussion at a Councillors Workshop to inform an updated policy framework for commercial signage and trading activity on public land throughout Tweed Shire.

The Motion was **Carried**

FOR VOTE - Unanimous

7 [PR-CM] Northern Joint Regional Planning Panel - Review of Council Appointed Panel Members - Recommended Appointment

728

**Cr K Milne
Cr G Bagnall**

RESOLVED that:

1. Council determines the appointment of two panel members and one alternative member of the Northern Joint Regional Planning Panel as:
Dr Stephen Philips, Mr Ned Wales as panel members with alternate member being Mr Robert Quirk.
2. The Director-General of the Department of Planning and Infrastructure be advised of these appointments; and

3. ATTACHMENTS 1 and 2 be treated as CONFIDENTIAL in accordance with Section 10A(2)(c) of the Local Government Act, 1993, because they contain information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

729

AMENDMENT

Cr C Byrne
Cr W Polglase

PROPOSED that:

1. Council determines the appointment of two panel members and one alternative member of the Northern Joint Regional Planning Panel as:
Mr Robert Quirk, Mr Ned Wales as panel members with alternate member being Dr Stephen Philips.
2. The Director-General of the Department of Planning and Infrastructure be advised of these appointments; and
3. ATTACHMENTS 1 and 2 be treated as CONFIDENTIAL in accordance with Section 10A(2)(c) of the Local Government Act, 1993, because they contain information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

The Amendment was **Lost**

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

The Motion was **Carried** (Minute No 728 refers)

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

8 [PR-CM] Community Based Heritage Study 2012 Management Recommendations

730

Cr B Longland
Cr M Armstrong

RESOLVED that:

1. Council endorses the Community Based Heritage Plan 2012 recommendations 9.4 – *Implementation of a Community Heritage Grants Scheme* and 9.5 – *Appointment of a*

Council Heritage Advisor and the required dollar for dollar budget commitment (estimated at approximately \$16,000) within the 2013-14 budget.

2. Council applies for grant funding to facilitate the appointment of a Heritage Advisor and development of the Local Heritage Assistance Fund through the Office of Environment and *Heritage Local Government Heritage Management Program*.
3. In accordance with sections 55 and 56 of the Environmental Planning and Assessment Act, 1979 a planning proposal be prepared and referred to the Minister for Planning and Infrastructure for a Gateway Determination to amend the Tweed City Centre Local Environmental Plan to list the relevant items within the Heritage Schedule.

The Motion was **Carried**

FOR VOTE - Unanimous

9 [PR-CM] NSW Department of Planning and Infrastructure - Plan Making and Delegations - Advice to Minister for Planning and Infrastructure

731

**Cr P Youngblutt
Cr C Byrne**

RESOLVED that:

1. The Minister for Planning and Infrastructure be advised of Council's acceptance to receive a delegation in respect of the Minister's Plan Making functions in regard to planning proposals, and
2. Pursuant to Part 3 of Chapter 12, Sections 377 to 381, of the *Local Government Act* 1993, Council requests the Department of Planning and Infrastructure to extend the Minister's delegations to the General Manager and, with the General Manager's approval, the Director Planning and Regulation, other than in relation to any proposal involving reclassification of public land, for the purpose of a delegation in respect of section 59 of the *Environmental Planning and Assessment Act* 1979 relating to the Plan Making functions of the Minister for Planning and Infrastructure.

732

AMENDMENT 1

**Cr K Milne
Cr G Bagnall**

PROPOSED that the Minister for Planning and Infrastructure be advised of Council's acceptance to receive a delegation in respect of the Minister's Plan Making functions in regard to planning proposals.

Amendment 1 was **Lost**

FOR VOTE - Cr K Milne

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

733

AMENDMENT 2

Cr K Milne

Cr G Bagnall

PROPOSED that Council defers a resolution on this report to allow time for any issues raised by the Councillors to be assessed and further reported on.

Amendment 2 was **Lost**

FOR VOTE - Cr K Milne, Cr G Bagnall

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

The Motion was **Carried** (Minute No 731 refers)

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

AGAINST VOTE - Cr K Milne, Cr G Bagnall

- 10 [PR-CM] Development Application DA10/0801.03 for an Amendment to Development Consent DA10/0801 for the Cobaki Estate Subdivision of Precinct 6 Comprised of 442 Residential Lots (Including 1 Residual Lot) and Lots for Drainage, Open Space and Urban Infras**

734

Cr K Milne

Cr M Armstrong

RESOLVED that:

1. Development Application DA10/0801.03 for an amendment to Development Consent DA10/0801 for the Cobaki Estate subdivision of precinct 6 comprised of 442 residential lots (including 1 residual lot) and lots for drainage, open space and urban infrastructure (JRPP) at Lot 1 DP 562222; Lot 2 DP 566529; Lot 1 DP 570077; Lot 1 DP 823679; Lots 46, 54, 55, 199, 200, 201, 202, 205, 206, 209, 228, 305 DP 755740, No. 73 Sandy Lane; Lot 1 DP 570076 Piggabeen Road, Cobaki Lakes be refused for the following reasons:
 1. The proposed modification is contrary to Council's adopted S94 Plan No. 4 Tweed Road Contribution Plan.

2. The proposed modification is contrary to Part 4 Division 6 Development Contributions of the Environmental Planning and Assessment Act 1979 (as amended).
 3. The proposed modification is contrary to Section 96(1A)(b) of the Environmental Planning and Assessment Act 1979 (as amended), in that it is not substantially the same development as that originally approved.
 4. The proposed modification is not considered to be in the public interest.
2. Council defends the matter in the NSW Land and Environment Court following the lodgement of an Appeal.
 3. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains:
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

The Motion was **Carried**

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

- 11 [PR-CM] Development Application DA10/0800.04 for an Amendment to Development Consent DA10/0800 for the Cobaki Estate Subdivision of Precinct 1 and 2 Comprised of 475 Residential Lots (Including 1 Residual Lot) and Lots for Drainage, Open Space and Urban**

735

Cr M Armstrong
Cr K Milne

RESOLVED that:

1. Development Application DA10/0800.04 for an amendment to Development Consent DA10/0800 for the Cobaki Estate subdivision of precinct 1 and 2 comprised of 475 residential lots (including 1 residual lot) and lots for drainage, open space and urban infrastructure (JRPP) at Lot 1 DP 562222; Lot 2 DP 566529; Lot 1 DP 570077; Lot 1 DP 823679; Lots 46, 54, 55, 199, 200, 201, 202, 205, 206, 209, 228, 305 DP 755740, No. 73 Sandy Lane; Lot 1 DP 570076 Piggabeen Road, Cobaki Lakes be refused for the following reasons:
 1. The proposed modification is contrary to Council's adopted Section 94 Plan No. 4 Tweed Road Contribution Plan.
 2. The proposed modification is contrary to Part 4 Division 6 Development Contributions of the Environmental Planning and Assessment Act 1979 (as amended).
 3. The proposed modification is contrary to Section 96(1A)(b) of the Environmental Planning and Assessment Act 1979 (as amended), in that it is not substantially the same development as that originally approved.
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4. The proposed modification is not considered to be in the public interest.
2. Council defends the matter in the NSW Land and Environment Court following the lodgement of an Appeal.
3. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains:
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

The Motion was **Carried**

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

12 [PR-CM] Development Application DA12/0170 for Alterations and Additions to Motel (Staged) at Lots 9-12 Section 4 DP 31209 Nos. 19-25 Cypress Crescent, Cabarita Beach; Lots 1-2 Section 4 DP 29748 Nos. 26-28 Tweed Coast Road, Cabarita Beach

Cr Polglase from tabled a petition in relation to this matter

736

Cr W Polglase
Cr P Youngblutt

PROPOSED that Development Application DA12/0170 for Alterations and Additions to Motel (Staged) at Lots 9-12 Section 4 DP 31209 Nos. 19-25 Cypress Crescent, Cabarita Beach; Lots 1-2 Section 4 DP 29748 Nos. 26-28 Tweed Coast Road, Cabarita Beach 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:
 - Site Plan Proposed, DA106 Revision A, dated 29 March 2012;
 - Ground Floor Plan, DA107 Revision B, dated 13 September 2012;
 - First Floor Plan Proposed, DA108, Revision A, dated 29 March 2012;
 - Second Floor Plan Proposed, DA109, Revision A, dated 29 March 2012;
 - Roof Plan Proposed, DA110, Revision A, dated 29 March 2012;
 - Elevations North / South, DA201, Revision A, dated 29 March 2012;
 - Elevations East / West, DA202, Revision A, dated 29 March 2012;
 - Sections, DA300, Revision A, dated 29 March 2012;

All prepared by Virginia Kerridge Architect, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

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

[GEN0135]

4. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by the General Manager or his delegate prior to any discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges.

[GEN0190]

5. Structures proposed/identified within/over the proposed Drainage Easement on the land are not approved and are to be deleted or located external to the easement. This refers to the "Covered Service Entry" portion of the proposed development.

Council may reconsider this requirement and allow a modified version of an open roofed structure over Council's stormwater pipe infrastructure if appropriate justification is provided that addresses:

- Retention of the existing ground level, without full floor slab construction over the stormwater pipe. "Lightweight" concrete flooring or paving would be acceptable.
- A clear vertical clearance of 2.4m (minimum) from the finished ground/floor level to the underside of any roof structure is provided.
- Verification that the proposed easement is not the relief stormwater overland flowpath route through the site.
- No permanent walls to be erected across the easement.
- Adjacent floor slabs to incorporate appropriate pier and beam design to avoid placing any load on the existing pipe.
- Unimpeded access is to be available to the pipe by Council Officers at all times.

Details are to be provided with the construction certificate application for the relevant Stage of the proposed development.

[GEN0255]

6. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0300]

7. The signage hereby approved shall not include any form of internal or external illumination, unless otherwise approved by the General Manager or delegate officer in order to safeguard the residential and visual amenity of the locality.

[GENNS01]

8. Waste management on the site shall be carried out in accordance with the approved Waste Management Plan prepared by Planit Consulting, dated April 2012.

[GENNS02]

9. The facilities hereby approved within the motel building (such as restaurant/dining area, lounge room and outdoor food and beverage service area) are to be used by guests of the motel only, with the exception of ancillary functions and events consistent with the use of the premises as a Motel and linked to guests residing on site.
10. The swimming pool hereby approved shall be used by guests of the motel only and are not to be utilised by members of the general public, unless otherwise approved in writing by the General Manager or delegate officer.
11. This development consent approves the construction of alterations and additions to the existing motel only to be used by guests and staff of the motel only.
12. The use of the motel for members of the general public or for functions, parties or the like is permitted on an ancillary basis to the primary function of the premises as a Motel.
13. This approval relates to Lots 9, 10, 11 and 12 in Section 4 DP 31209 and does not authorise any works over Lots 1 or 2 in Section 4 DP 29748 (eg. the proposed tennis court and signage).
14. This approval does not include any signage. Where statutorily required any signage should be subject to a future application.

[GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

15. The developer shall provide 25 parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

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

[PCC0065]

16. Section 94 Contributions

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

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

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:

14.88 Trips @ \$1155 per Trips \$17186
(\$1145 base rate + \$10 indexation)

S94 Plan No. 4

Sector7_4

(b) Open Space (Casual):

10.4 ET @ \$526 per ET \$5470
(\$502 base rate + \$24 indexation)

S94 Plan No. 5

(c) Open Space (Structured):

10.4 ET @ \$602 per ET \$6261
(\$575 base rate + \$27 indexation)

S94 Plan No. 5

(d) Shirewide Library Facilities:

10.4 ET @ \$816 per ET \$8486
(\$792 base rate + \$24 indexation)

S94 Plan No. 11

(e) Community Facilities (Tweed Coast - North)

10.4 ET @ \$1352 per ET \$14061
(\$1305.6 base rate + \$46.4 indexation)

S94 Plan No. 15

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

10.4 ET @ \$1812.62 per ET \$18851.25
(\$1759.9 base rate + \$52.72 indexation)

S94 Plan No. 18

[PCC0215]

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.

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

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

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5

prior to the issue of a construction certificate. The contribution shall be based on the following formula:-

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

where:

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

and:

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

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

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

Admin. Administration component - 5% - see Section 6.6

[PCC0225/PSC0185]

18. 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 DSP6: 2.727 ET @ \$12150 per ET \$33133.10

Sewer Hastings Point: 4.1314 ET @ \$5838 per ET \$24119.10

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

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

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

[PCC0265]

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

[PCC0285]

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

[PCC0465]

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

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

[PCC0485]

22. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required works: -

- (a) Vehicular access: construction of two (2) vehicular footpath crossings.
- (b) Construction of concrete path paving for the Cypress Crescent frontage.

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

[PCC0895]

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

[PCC0935]

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

- (a) The Construction Certificate Application shall detail stormwater management for the occupational or use stage of the development in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.

- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.
- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management.
- (d) Specific Requirements to be detailed within the Construction Certificate application include:
 - (i) Shake down area along the haul route immediately before the intersection with the road reserve.

[PCC1105]

25. A construction certificate application for works that involve any of the following:

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under Section 68 of the Local Government Act.

Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC1145]

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

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

[PCC1155]

27. The applicant is to provide a report from a suitably qualified person verifying that an environmental risk assessment has been carried out, and that radiation levels throughout the proposed development site do not pose a public health risk. In the event that radiation is detected at levels likely to result in a risk to occupants and/ or users of the site, then a site remediation plan is to be prepared and submitted to Tweed Shire Council for approval to the satisfaction of the General Manager or delegate.

28. A noise management plan shall be prepared and submitted to the satisfaction of the General Manager or his delegate which details the type of plant and equipment proposed, proposed location of all plant and equipment, and proposed noise mitigation measures to ensure that the emission of intrusive noise is prevented. Such management plan shall be submitted and approved prior to the issue of the construction certificate.

29. Prior to the construction certificate being issued plans drawn to a scale of 1:50 detailing the following with regards to all food related areas (handling, storage, preparation and service) shall be provided to Council for assessment and approval,

accompanied by a completed Application for Approval of Food Premise Fit-out, and the adopted fee in Council's Fees and Charges. Evidence of the plans being approved shall be provided prior to release of the construction certificate:

- a. Floor plan;
 - b. Layout of kitchens and bar showing all equipment;
 - c. All internal finish details including floors, wall, ceiling and lighting;
 - d. Hydraulic design in particular method of disposal of trade waste;
 - e. Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required.
30. Prior to the issue of a Construction Certificate, the applicant is to provide details of the location, height and materials of all boundary treatment (fences and walls) to be approved in writing by the General Manager or delegate officer. Boundary treatment shall be constructed in accordance with the approved details and thereafter be retained as such.
31. Prior to the construction certificate being issued plans drawn to a scale of 1:50 detailing the following with regards to all food related areas (handling, storage, preparation and service) shall be provided to Council for assessment and approval, accompanied by a completed Application for Approval of Food Premise Fit-out, and the adopted fee in Council's Fees and Charges. Evidence of the plans being approved shall be provided prior to release of the construction certificate:
- a. Floor plan;
 - b. Layout of kitchens and bar showing all equipment;
 - c. All internal finish details including floors, wall, ceiling and lighting;
 - d. Hydraulic design in particular method of disposal of trade waste;
 - e. Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required.
32. Prior to the issue of a construction certificate for any of the proposed Stages of the development, a Traffic Management Plan shall be submitted to the Principal Certifying Authority to address the access requirements for Heavy Ridge Vehicle/Small Rigid Vehicle movements within the site, to avoid conflict with existing parking arrangements and facilities.
- [PCCNS03]
33. Prior to the issue of a construction certificate for Stage 1, a Stormwater Management Plan and detailed stormwater design information is to be provided that must address;
- The requirement for a relief overland stormwater flowpath through the site, from the existing low point at the Cypress Crescent frontage, through the proposed car park, and merging with the existing ground level at the southern boundary, aligning with the existing Drainage Easement.
 - Investigates and assesses the upstream stormwater catchment, for a Q100 year storm event, to determine the required volume, depth, velocity, and top water level of overland flows that must be catered for.
 - The floor levels of any habitable buildings are to be a minimum of 300mm above the top water level as determined by the previous dot point.

- Revert any concentrated flow (within the relief overland flowpath) back to a broad flow pattern along the southern boundary of the site, to mimic the existing situation as near as possible.
- Any boundary or internal fencing that crosses the overland flowpath shall be of an open nature to allow for flow-through capability.
- An appropriate easement is to be created over the overland stormwater flowpath.

[PCCNS04]

34. The applicant is to submit to Council details of proposed signage (including a scaled plan, details of materials, colours and wording) to be approved by the General Manager or delegate office prior to the issue of a Construction Certificate. The signage shall be carried out in accordance with the approved details and shall thereafter be retained as such.
35. Prior to the issue of the Construction Certificate, a detailed plan of landscaping with a minimum 80% of total plant numbers comprised of local native species and no noxious or environmental weed species or threatened species is to be submitted and approved by Council's General Manager or his delegate.
36. The proponent is to prepare a report, to the satisfaction of the Principal Certifying Authority, prior to the issue of the Construction Certificate, detailing how the outdoor food and beverage area is to be dismantled and removed from the site if the erosion escarpment comes within 20 metres of the building.

[PCCNS05]

37. Prior to issue of a construction certificate the applicant is to provide to Council for approval a revised site plan showing all works within Lots 9, 10, 11 and 12 in Section 4 DP 31209 including car parking and access provisions. This plan should retain the same number of car parking spaces as proposed within DA12/0170.

PRIOR TO COMMENCEMENT OF WORK

38. 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]

39. 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]

40. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

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

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

[PCW0255]

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

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

[PCW0375]

42. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act and Premises Standard which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0665]

43. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required. These measures are to be in accordance with any erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

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

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

[PCW0985]

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

[PCW1065]

DURING CONSTRUCTION

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

[DUR0005]

46. If during construction works any Aboriginal object or relic is disturbed or uncovered, works are to cease and the Department of Environment, Climate Change and Water are to be notified immediately, in accordance with the provisions of the National Parks and Wildlife Act 1974.

[DUR0025]

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

- A. Short Term Period - 4 weeks.

$L_{Aeq, 15 \text{ min}}$ noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

- B. Long term period - the duration.

$L_{Aeq, 15 \text{ min}}$ noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0215]

49. Where required by the BCA, the fire services within the existing building is to be upgraded to comply with the Building Code of Australia and 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]

50. 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]

51. 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]

52. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Occupational Health and Safety Regulation 2001.

The proponent shall also observe the guidelines set down under the Department of Environment and Climate Change publication, "A Renovators Guide to the Dangers of Lead" and the Workcover Guidelines on working with asbestos.

[DUR0645]

53. 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 and 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]

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

[DUR0815]

55. 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]

56. 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]

57. 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]

58. 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]

59. 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]

60. 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]

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

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

[DUR1275]

62. A survey certificate signed by a registered surveyor is to be submitted to the Principal Certifying Authority at floor stage to certify that all habitable floor levels are at a level of not less than 300mm above the designed top water level within the overland stormwater flowpath traversing the site.

[DUR1445]

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

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

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

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

[DUR1495]

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

[DUR1505]

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

[DUR1515]

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

[DUR1545]

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

[DUR1575]

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

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

[DUR1735]

69. 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]

70. 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]

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

[DUR1905]

72. 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]

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

[DUR2185]

74. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".

[DUR2195]

75. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary.

[DUR2205]

76. 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]

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

[DUR2445]

78. 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]

79. 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]

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

- * 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50°C in all other classes of buildings.

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

[DUR2555]

81. House drainage lines affected by the proposal are to be relocated to Council's satisfaction. Prior to the relocation of any plumbing and drainage lines, a plumbing permit and the relevant plumbing permit fee is to be submitted to Council. Inspection of drainage works prior to covering is required

[DUR2565]

82. All structures are to be sited at least one metre horizontally clear of Council's stormwater infrastructure and sewer main on site. All footings and slabs within the area of influence of the stormwater pipe and sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not affect or be affected by the stormwater pipe or sewer main.

[DUR2645]

83. The development shall be carried out in accordance with the provisions of the Environmental Noise Impact report prepared by CRG Acoustical Consultants (ref: crgref12008a report dated 10 April 2012) except where modified by this consent.

84. All plant and equipment including swimming pool pumps, air conditioning units, heat pump water systems and the like shall be located and installed so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.

85. All plant and equipment including swimming pool pumps, air conditioning units, heat pump water systems and the like shall be located and installed so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.

86. Vegetation clearing is limited to three (3) trees and several ornamental palms as identified on the On-site Vegetation Management Plan prepared by Planit Consulting and dated July 2012.

87. Wherever possible an adequate Tree Protection Zone shall be provided around vegetation that is to be retained to limit the extent of works. Tree Protection Zones:

- a. Shall be adequately fenced, marked and sign posted before, during and after construction.
- b. All trenches, footings and major earth movement shall avoid Tree Protection Zones.
- c. Materials and soils shall not be stockpiled within Tree Protection Zones.
- d. Machinery shall avoid Tree Protection Zones during all operations.

88. The outdoor food and beverage service area is to be constructed as a separate structure and be demountable or relocatable. The structure does not require screw piles as it will be sacrificial.

[DURNS03]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

90. 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]

91. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

92. 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]

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

[POC0615]

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

[POC0625]

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

[POC0635]

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

[POC0745]

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

[POC0755]

98. 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]

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

[POC0855]

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

[POC0985]

101. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

102. Prior to the issue of an Occupation Certificate for Stage 1, the following Easements are to be created over the site (and are recommended to be created in conjunction with the consolidation of the site into a single allotment:

- i. Drainage Easement 3m wide over the existing Council stormwater pipe that traverses the site.
- ii. Easement for Overland Stormwater Flowpath over the route of the constructed flowpath through the site. Note that this easement may overlap existing or proposed Drainage Easements.

[POCNS01]

103. Prior to the issue of an Occupation Certificate for Stage 1, existing Development Consent DA07/0966 shall be surrendered.

[POCNS02]

104. As the development subject of this consent has been identified as being within one or more of the Coastal Hazard Zones as described in Tweed Development Control Plan B25 this consent is subject to the owner of the subject land PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE creating a positive covenant under section 88E of the (*Conveyancing Act, 1919*) on the following terms:

- "(i) *The registered proprietor of the subject land acknowledges that the subject land is within a Coastal Hazard Zone as described in Tweed Development Control Plan B25 or any other subsequent iteration of that planning instrument.*
- (ii) *The registered proprietor also acknowledges that any development within the subject land must comply with the terms set out herein as follows:*
 - a. *In the event that the erosion escarpment comes within 20 metres of any habitable components only as outdoor dining area is sacrificial - see condition No 37 below - avoid double up and inconsistency with Condition No 37) any building/s on the subject land then the use of any building/s shall cease and the registered proprietor of the subject land shall remove any or all buildings to a location on the subject land that is further than 20 metres from the erosion escarpment where possible, or off site where not possible. In the event that relocation is not possible, then any affected building shall be demolished.*

- b. *The registered proprietor of the subject land shall bear all costs in relation to the relocation or demolition of any or all buildings located on the subject land.*
- c. *The terms "Coastal Hazard Zones", "erosion escarpment" and any other references of this covenant are to be read as having the meaning in accordance with their definitions in the Tweed Development Control Plan B25".*

[POCNS03]

- 105. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.
- 106. All proposed works within the 2100 Hazard Zone need to demonstrate they are in accordance with Section 3.3.2 of the Coast Hazard - Tweed DCP B25.

[POCNS04]

USE

- 107. 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]

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

[USE0165]

- 109. 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]

- 110. Hours of operation of the business are restricted to the following hours and in accord with the recommendations of the CRG Acoustical Consultants (ref: crgref12008a report dated 10 April 2012):

- * Dining areas, not including BBQ or Outdoor Bar and Dining Areas, 7am - 10pm Sunday to Thursday and, 7am - 12am Friday and Saturday and Public Holidays;
- * Outdoor facilities, including Pool, BBQ and Bar and Outdoor Dining Areas, 7am to 10pm Monday to Sunday.

[USE0185]

- 111. 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]

112. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer.

[USE0245]

113. Any vehicles that remain on site for periods in excess of two (2) minutes are required to switch off their engines.

[USE0255]

114. All trade materials, product and plant to be kept within confines of the building at all times.

[USE0515]

115. All loading/unloading to take place within the boundary of the subject property.

[USE0525]

116. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act 2003*, FSANZ Food Safety Standards and AS 4674-2004 Design, construction and Fit-out of Food Premises and other requirements of Councils Environmental health Officer included in this approval.

[USE0835]

117. Amplified music or sound is only to be undertaken in accord with the recommendations of the CRG Acoustical Consultants (ref: crgref12008a report dated 10 April 2012).

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

1. The motel re-development proposal is to comply with the plans attached to the Bush Fire Safety Authority (BFSA) application, referred by Tweed Shire Council under S 100B of the Rural Fires Act and received by the NSW RFS 16 May 2012, along with amendments made by the attached conditions.

The plans referred to (and used for this assessment) are noted as being prepared by Virginia Kerridge Architect, and are identified as:

- Site Plan DA106, Revision A, Dated 29/3/12;
- Ground Floor Plan, DA107, Revision B, Dated 13/09/12;
- First Floor Plan Proposed, DA108, Revision A, Dated 29/3/12;
- Second Floor Plan Proposed, DA109, Revision A, Dated 29/3/12;
- Roof Plan Proposed, DA110, Revision A, Dated 29/3/12;
- Elevations North South, DA201, Revision A, Dated 29/3/12;
- Elevations East West, DA202, Revision A, Dated 29/3/12;
- Sections DA300, Revision A, Dated 29/3/12.

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

3. Water, electricity and gas are to comply with sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire Protection 2006'.
4. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.
5. Exits are to be located away from the hazard side of the building.
6. Roller doors, tilt-a-doors and other such doors shall be sealed to prevent the entry of embers into the building.
7. No brushwood fencing shall be used.
8. Structure and shade materials in the inner protection area shall be non-combustible or have a Flammability Index of no greater than 5 when tested in accordance with Australian Standard AS1530.2-1993 'Methods for Fire Tests on Building Materials, Components and Structures - Test for Flammability of Materials'.
9. New construction on the Northern, Eastern and Southern elevations of the existing motel building, with a setback distance greater than 16.8m from the Eastern boundary (generally balcony additions), shall comply with Sections 3 and 7 (BAL - 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
10. New construction on the Western elevation of the existing motel building and all other additions located to the West of the existing motel, shall comply with Sections 3 and 6 (Bal - 19) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
11. The 'Outdoor food and beverage service area' and the 'Equipment store' shall either be constructed from non-combustible materials or comply with Sections 3 and 9 (BAL-FZ) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

However, any material, element of construction or system when tested to the method described in Australian Standard AS1530.8.2 'Methods for fire tests on building materials, components and structures Part 8.2: Tests on elements of construction for buildings exposed to simulated bushfire attack - Large flaming sources' shall comply with Clause 13.8 of that Standard except that flaming of the specimen is not permitted and there shall be no exposed timber.

Window assemblies shall comply with one of the following:

- a) Clause 9.5.2 of AS 3959-2009 as modified above; or
- b) They shall comply with the following:
 - i. Completely protected by a non-combustible and non perforated bushfire shutter that complies with Section 3.7 of AS3959-2009 excluding parts (e) & (f).
 - ii. Window frames and hardware shall be metal.
 - iii. Glazing shall be toughened glass minimum 6mm.
 - iv. Seals to stiles, heads and sills or thresholds shall be manufactured from materials having a flammability index no greater than 5 or from silicone.
 - v. The openable portion of the window shall be screened internally or externally with screens that comply with Clause 9.5.1A.

External doors and door frames (not including garage doors) shall comply with one of the following:

- a) Clause 9.5.3 or 9.5.4 of AS 3959-2009 as modified above; or
 - b) They shall comply with the following:
 - i. Completely protected by a non-combustible and non perforated bushfire shutter that complies with Section 3.7 of AS 3959-2009 excluding parts (e) & (f).
 - ii. Doors shall be non-combustible.
 - iii. Externally fitted hardware that supports the panel in its function of opening and closing shall be metal.
 - iv. Where doors incorporate glazing, the glazing shall be toughened glass minimum 6mm.
 - v. Seals to stiles, head and sills or thresholds shall be manufactured from materials having a flammability index no greater than 5 or from silicone.
 - vi. Doorframes shall be metal.
 - vii. Doors shall be tight fitting to the doorframe and to an abutting door if applicable.
 - viii. Weather strips, draught excluders or draught seals shall be installed at the base of side-hung external doors.
12. Roofing of the single storey buildings shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall be non-combustible.
 13. New construction, located generally on the Eastern side of the motel building, and having a setback of between 16.8m and 21.3m from the Eastern boundary (i.e. additions to: serviced apartments and restaurant), shall comply with Sections 3 and 8 (BAL -40) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
 14. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

Note

The following bushfire-resisting timbers have been determined as being acceptable to withstand exposure up to BAL -29 conditions as per Australian Standard AS 3959-2009 'Construction of buildings in bush fire-prone areas' and are identified within Appendix F of the standard. These species include: Silvertop Ash, Blackbutt, River Red Gum, Spotted Gum, Red Ironbark, Kwila (Merbau) and Turpentine.

737

AMENDMENT

**Cr K Milne
Cr G Bagnall**

RESOLVED that the application be deferred to a Workshop for further determination.

The Amendment was **Carried**

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

The Amendment on becoming the Motion was **Carried** - (Minute No 737 refers)

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

**13 [PR-CM] Development Application DA12/0082 for a Two Lot Subdivision at
Lot 1 DP 1101049 No. 63 Duranbah Road, Duranbah**

Cr P Youngblutt left the meeting at 07:30 PM

Cr P Youngblutt has returned from temporary absence at 07:31 PM

738

**Cr G Bagnall
Cr K Milne**

PROPOSED that Development Application DA12/0082 for a two lot subdivision at Lot 1 DP 1101049; No. 63 Duranbah Road, Duranbah be refused in accordance with Section 79c of the Environmental Planning and Assessment Act 1979 and Clause 20 of the Local Environmental Plan - Subdivision in Zones 1(b1).

739

AMENDMENT

**Cr K Milne
Cr G Bagnall**

PROPOSED that this Item be deferred to the next Council meeting to allow for a workshop.

The Amendment was **Lost**

FOR VOTE - Cr K Milne, Cr G Bagnall

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

The Motion was **Lost**

FOR VOTE - Cr K Milne, Cr G Bagnall

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

740

Cr C Byrne

Cr P Youngblutt

RESOLVED that Development Application DA12/0082 for a two lot subdivision at Lot 1 DP 1101049; No 63 Duranbah Road, Duranbah 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 (Proposed Lot Subdivision) prepared by Planit Consulting and dated June 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. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent. Application shall include engineering plans and specifications for the following required works:
 - Each lot shall have a sealed driveway, constructed from the road to 3m inside the property boundary. A gate shall be installed for the driveway in the boundary fence. The driveway location must be such that internal two (2) wheel drive access can be constructed from the driveway to the nominated building site.
5. 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.
6. Erosion and Sediment Control shall be provided in accordance with the following:
 - The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.

- 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".

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

[PSC0005]

8. Section 94 Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an 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 @ \$1146 per Trips \$7449
(\$1137 base rate + \$9 indexation)
S94 Plan No. 4
Sector6_4
- (b) Open Space (Casual):
1 ET @ \$526 per ET \$526
(\$502 base rate + \$24 indexation)
S94 Plan No. 5
- (c) Open Space (Structured):
1 ET @ \$602 per ET \$602
(\$575 base rate + \$27 indexation)
S94 Plan No. 5
- (d) Shirewide Library Facilities:
1 ET @ \$816 per ET \$816
(\$792 base rate + \$24 indexation)
S94 Plan No. 11

- (e) Eviron Cemetery:
1 ET @ \$121 per ET \$121
(\$101 base rate + \$20 indexation)
S94 Plan No. 13
- (f) Community Facilities (Tweed Coast - North)
1 ET @ \$1352 per ET \$1352
(\$1305.6 base rate + \$46.4 indexation)
S94 Plan No. 15
- (g) Extensions to Council Administration Offices
& Technical Support Facilities
1 ET @ \$1812.62 per ET \$1812.62
(\$1759.9 base rate + \$52.72 indexation)
S94 Plan No. 18
- (h) Regional Open Space (Casual)
1 ET @ \$1064 per ET \$1064
(\$1031 base rate + \$33 indexation)
S94 Plan No. 26
- (i) Regional Open Space (Structured):
1 ET @ \$3730 per ET \$3730
(\$3619 base rate + \$111 indexation)
S94 Plan No. 26

[PSC0175]

9. 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]

10. 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]

11. 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:
- Restriction to be created over Lot 2 stating that all roofwater from houses, buildings or structures shall be discharged to an approved infiltration pit located on the subject property. The infiltration pit shall be approved by the Principle Certifying Authority.

- Restriction to be created over Lot 2 stating that the lots are not connected to a reticulated sewer system and any dwelling to be constructed on the site will need to provide on-site sewage management systems.
- A right of carriage way shall be provided to allow a service vehicle to gain access from proposed Lot 1 to the existing irrigation bore located in proposed Lot 2. The right of carriage way width shall be suitable for a service vehicle.
- Provide an easement for any electrical works over Lot 2 servicing the existing and/or proposed new bore.
- Provide an easement for any water reticulation over Lot 2 servicing the existing and/or proposed new bore.
- Positive covenant for the owner of proposed Lot 1 to have rights to use the existing bore within proposed Lot 2.
- Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.
- Positive Covenant over the subject land (as applicable) to ensure that the required provisions of the "Planning for Bushfire Protection 2006 "Guidelines and the General Terms of Approval of the Consent as imposed under Section 100B of the Rural Fires Act 1997 are enforced in perpetuity.

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]

12. 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]

13. 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]

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

[PSC0925]

15. 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 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]

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

[PSC1165]

17. 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]

18. Prior to issue of a subdivision certificate a Council approved (under section 68 of the NSW Local Government Act) wastewater treatment device is to be installed to service the existing primary dwelling, existing nursery amenities, staff and office amenities. Any proposed onsite sewage management systems is to be designed in accordance with the provisions of Australian Standard AS1547 and *Environment and Health Protection Guidelines On-site Sewage Management for Single Households* 1998.

[PSCNS01]

19. Prior to the issue of a Subdivision Certificate, approval to operate the on-site sewage management facility under Section 68 of the Local Government Act 1993 shall be obtained from Council.

20. Prior to the issue of a Subdivision Certificate a potable water supply is to be provided for the existing dwelling house and staff amenity building in accordance with the *Australian Drinking Water Guidelines* 2004. In addition, a quality assurance program is to be implemented in accordance with the *NSW Public Health Act* 2010, *NSW Public Health Regulation* 2012, and NSW Health Private Water Supply Guidelines.

21. Prior to the issue of a Subdivision Certificate, a dedicated roof catchment water supply, or other suitable Council approved supply source shall be provided to the existing primary residence. Any domestic water supply roof collection system should be fitted with a first flush device and adequately maintained to ensure a safe and suitable drinking water supply, where applicable. The minimum storage tank capacity shall reflect the dry seasonal periods experienced in the locality and shall be in addition to any fire fighting capacity requirements stipulated by the NSW Rural Fire Services. The minimum dedicated storage capacity required shall be 15,000L per bedroom with a minimum 20,000L to be provided.

[PSCNS02]

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 identified as 'Proposed Lot Subdivision', drawn by ZP (Planit Consulting) and dated June 2012.
2. Any works associated with the electricity supply, required to be undertaken due to the proposed subdivision, are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
3. Property access roads shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.

The Motion was **Carried** (Minute No 740 refers)

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

AGAINST VOTE - Cr K Milne, Cr G Bagnall

14 [PR-CM] Kings Forest Preferred Project Report - Stage 1 Project Application and Amendment 2 to the Concept Plan - Council's Submission to the NSW Department of Planning and Infrastructure

741

**Cr K Milne
Cr G Bagnall**

PROPOSED that Council:

1. Council endorses this submission and the attachment "Draft Conditions" and submits it to the consent authority as the formal response to Amendment 2 to the Concept Plan and the Preferred Project Report for the Stage 1 Project Application for Kings Forest.
2. Requests the Department of Planning to:
 - a) Defer this determination to allow the provisions of Council's Tweed Coast Koala Plan of Management, currently nearing finalisation for exhibition, to be fully incorporated.

- b) Limit the approval areas for bulk earthworks so that the required updated reviews of the various management plans are able to take into account relevant issues as they arise during each stage, particularly for the Kings Forest Koala Plan of Management in relation to consistency with Council's forthcoming Tweed Coast Koala Plan of Management and any resulting impacts to the marine ecosystems.

Earthworks should preferably be limited to the works (including roadworks, etc) required to facilitate the first subdivision stages of precincts 1 and 5 only, or

In the alternative,

At the very least, exclude approval for bulk earthworks in the highly sensitive Cudgen Paddock area at this stage.

- c) Require an independent review of the Integrated Water Cycle Management plans to better provide for leading best practice in water conservation and reuse, and improved marine ecological outcomes.
- d) Require an independent review of the climate change implications of this development, and any legal obligations or financial burdens that may arise for Council in the long term future, including post 100 years, in light of the new scientific information on increased sea level rises and accelerated permafrost melt and this low lying floodplain.
- e) Require an independent review in regard to whether this proposal is consistent with legislated 'Ecologically Sustainable Development' objectives in regard to a fully integrated 'Ecologically Sustainable Development' approach including for biodiversity, energy renewal and efficiency, waste management, infrastructure and building design and recycled materials, community facilities, community gardens, edible street plantings, and Healthy Communities planning, etc.

Community consultation should be included in such a review.

- f) Council seeks provision for a mobile phone tower to be provided on the Kings Forest site, in a location sensitive to the environment and the neighbours, and urgently negotiates with LEDA an appropriate location in regard to the current Telstra application severely impacting the neighbours.
 - g) Deferral of this development until the investigation and determination of the clearing and dredging of Blacks Creek in the Cudgen Nature Reserve, and the significance for the draining and flood issues for this site have been resolved to enable determination of any implications for the current application.
3. The State government is requested to take the opportunities available with the magnitude of this development, and the dire need to provide for enhanced Koala and Threatened species habitats and protections, to apply leading best practice 'Ecological Sustainable Development' principles to create a Model 'Sustainable Conservation Development' consistent with the enormous significance and sensitivity of this site.

Landcom's Sustainable Subdivision PrecinctX tool could assist in such a process, with funds contributed by the developer, to make any adaptations required to the tool to suit the local conditions of the Tweed Region.

The State Government is requested to take into account the Tweed Shire's international biodiversity significance, the Shire's highest rate of threatened species in Australia, Council's desire to establish an economic and tourism reputation, consistent with on the Tweed's environmental integrity, and to uphold the communities values as described in Tweed's Community Strategic Plan.

Council remains deeply concerned about the ongoing viability of the koala population and biodiversity particularly if the Cudgen Paddock is affected and seeks deferral of works in this area until the effects of these first two subdivision precincts can be reviewed.

Council remains deeply concerned about the ongoing viability of the marine environment and seeks a deferral of works, except those required for precincts 1 and 5, until these first two subdivision precincts can be reviewed.

742

**Cr B Longland
Cr G Bagnall**

RESOLVED that Cr Milne be granted an extension of time of 3 minutes to speak to her proposed Motion.

743

AMENDMENT 1

**Cr W Polglase
Cr P Youngblutt**

PROPOSED that Council endorses this submission and the attachment "Draft Conditions" and submits it to the consent authority as the formal response to Amendment 2 to the Concept Plan and the Preferred Project Report for the Stage 1 Project Application for Kings Forest.

Amendment 1 was **Lost**

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

744

AMENDMENT 2

**Cr B Longland
Cr P Youngblutt**

RESOLVED that:

1. Council endorses this submission and the attachment "Draft Conditions" and submits it to the consent authority as the formal response to Amendment 2 to the Concept Plan and the Preferred Project Report for the Stage 1 Project Application for Kings Forest.
2. Urges the Department of Planning and Infrastructure to consider the Tweed Shire Council's draft Comprehensive Koala Plan of Management, which is nearing finalisation as part of their assessment.

Amendment 2 was **Carried** and became the Motion.

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

745

AMENDMENT

**Cr K Milne
Cr G Bagnall**

PROPOSED that Council:

1. Endorses this submission and the attachment "Draft Conditions" and submits it to the consent authority as the formal response to Amendment 2 to the Concept Plan and the Preferred Project Report for the Stage 1 Project Application for Kings Forest.
2. Urges the Department of Planning and Infrastructure to consider the Tweed Shire Council's draft Comprehensive Koala Plan of Management, which is nearing finalisation as part of their assessment.
3. Requests the Department of Planning to limit the approval areas for bulk earthworks so that the required updated reviews of the various management plans are able to take into account relevant issues as they arise during each stage, particularly for the Kings Forest Koala Plan of Management in relation to consistency with Council's forthcoming Tweed Coast Koala Plan of Management and any resulting impacts to the marine ecosystems.

The Amendment was **Lost**

FOR VOTE - Cr K Milne, Cr G Bagnall

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

The Motion was **Carried** (Minute No 744 refers)

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

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase

15 [PR-CM] Tweed Development Control Plan - Section B11 Seaside City

746

Cr P Youngblutt

Cr W Polglase

RESOLVED that:

1. The draft *Tweed Development Control Plan Section B11 – Seaside City* be placed on public exhibition in accordance with Clause 18 of the Environmental Planning and Assessment Regulation 2000 for a minimum period of 28 days; and
2. Following public exhibition, a further report addressing all submissions is to be prepared for consideration by Council.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne, Cr G Bagnall

16 [PR-CM] PP10/0007 - Mooball Residential Development

747

Cr W Polglase

Cr P Youngblutt

RESOLVED that:

1. Planning Proposal PP10/0007 over Lot B in DP 419641, Lot 2 in DP 534493 and Lot 7 in DP 593200 be referred to the NSW Department of Planning and Infrastructure requesting a Gateway Determination under Section 56(1) of the Environmental Planning and Assessment Act 1979;
2. The Minister for Planning and Infrastructure be advised that a delegation of the Plan Making functions is not being sought in this instance; and

3. The Landowner/Proponent be advised that a Planning Agreement detailing the requirements for test pits and soil testing, in accordance with the Aboriginal Advisory Committees recommendation of 1 June 2012, being undertaken prior to any future development application over the land, and addressing the requirements for a standalone private waste water management system and associated licensing, is required in association with Planning Proposal PP10/0007, and confirmation of their participation in such an agreement and their funding thereof is to be provided prior to Recommendation 2 above taking effect.

748

AMENDMENT

**Cr K Milne
Cr G Bagnall**

PROPOSED that this item be deferred to a Workshop to assist Councillors to understand the history and implications of the water management proposed in relation to sustainability objectives and Urban Release Strategy.

The Amendment was **Lost**

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

The Motion was **Carried** (Minute No 747 refers)

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

**17 [PR-CM] PP12/0002 - Mooball Residential Development at Lot 2 DP 828280
No. 5993 Tweed Valley Way, Mooball**

749

**Cr P Youngblutt
Cr W Polglase**

RESOLVED that:

1. A planning proposal be prepared for PP12/0002 – Mooball Residential Development, Lot 2 DP 828280 No. 5993 Tweed Valley Way, Mooball, subject to the prior execution of a Costs and Expenses Agreement with the Landowner and/or Proponent; and

2. The Landowner/Proponent be advised that a Planning Agreement detailing the requirements for a standalone private waste water management system and associated licensing and, if deemed appropriate, detailing the requirements for any Aboriginal Cultural Heritage investigation, including physical examination by way of test pits and/or soil testing, deemed to be necessary by Council's Heritage Consultant for the project; and
3. Following completion, Planning Proposal PP12/0002 – Mooball Residential Development, Lot 2 DP 828280, 5993 Tweed Valley Way, Mooball be referred to the NSW Department of Planning and Infrastructure requesting a Gateway Determination under Section 56(1) of the Environmental Planning and Assessment Act 1979; and
4. The Minister for Planning and Infrastructure be advised that a delegation of the Plan Making functions is not being sought in this instance.

750

AMENDMENT

**Cr K Milne
Cr G Bagnall**

PROPOSED that this item be deferred to a Workshop to:

1. Assist Councillors to understand the history and implications of the water management proposed in relation to sustainability objectives and Urban Release Strategy.
2. Consider the impact on other Planning Reforms projects.

The Amendment was **Lost**

FOR VOTE - Cr K Milne, Cr G Bagnall

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

The Motion was **Carried** (Minute No 749 refers)

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

AGAINST VOTE - Cr G Bagnall, Cr B Longland

ADJOURNMENT OF MEETING

The meeting was adjourned at 8.52pm.

The meeting resume at 9.07pm.

CONFIDENTIAL COMMITTEE

799

Cr M Armstrong
Cr P Youngblutt

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

The Motion was **Carried**

FOR VOTE - Unanimous

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

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

2 [PR-CM] EQ2012-197 Tweed Rural Lands Strategy - Tender Procurement - Appointment of Preferred Service Provider

REASON FOR CONFIDENTIALITY:

The subject of the report is the tender procurement of a service provider to prepare a Rural Lands Strategy. The procurement process is still under consideration and negotiations with the preferred tenderer(s) is subject to the resolution of the Council acting on the recommendations of this report. No Tenderer has been advised of the outcome of the procurement process at this time and disclosure of the information in this report may prejudice negotiations and/or alter a commercial advantage.

Local Government Act

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

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

C 62

That:

1. Council's Project Officer managing the consultancy procurement for the preparation of a Rural Lands Strategy negotiate with the two preferred tenderers for their appointment to undertake the project to a value not exceeding a total combined cost of \$155,000 and that the four project Stages be prepared by the following consultants:
 - Stages 1 and 2: EnPlan Partners Pty Ltd with Urban Enterprise Pty Ltd; and
 - Stages 3 and 4: GHD (Australia) Pty Ltd.
2. In the event that suitable arrangements cannot be negotiated with both tenderers for the preparation of the Rural Lands Study pursuant to Recommendation 1 above that Council's Project Officer managing the consultancy procurement for the preparation of a Rural Lands Strategy negotiate with EnPlan Partners Pty Ltd with Urban Enterprise Pty Ltd as the sole tenderer for the preparation of the project to a total combined cost not exceeding \$155,000.
3. An amount of \$30,000 be included in the 2013/14 budget toward the preparation of the Rural Lands Strategy.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

3 [PR-CM] Dwelling Entitlements

REASON FOR CONFIDENTIALITY:

The report contains legal advice that impacts on Council's development and planning decisions.

Local Government Act

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

- (e) information that would, if disclosed, prejudice the maintenance of law.

C 63

That Council:

1. Receives and notes the report on Dwelling Entitlements; and
2. Endorses that a Councillors Workshop be held to discuss recent legal advice regarding dwelling entitlements.

The Motion was **Carried**

FOR VOTE - Unanimous

4 [PR-CM] Breach of Legislation, Tweed River Hacienda Caravan Park

REASON FOR CONFIDENTIALITY:

This report has been made Confidential so as not to prejudice any future legal proceedings.

Local Government Act

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

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

C 64

That the report on Breach of Legislation, Tweed River Hacienda Caravan Park be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

LATE ITEM

C 65

That Item a4 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

FOR VOTE - Unanimous

a4 [PR-CM] Leda Cobaki Development Site - Compliance Issues - Unauthorised Subdivision Works

REASON FOR CONFIDENTIALITY:

Report incorporates "Without Prejudice" matters.

Local Government Act

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

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

C 66

That Council:

1. In respect of the compliance and enforcement issues relating to Leda's development site at Cobaki that are identified in this report:
 - a. acknowledges its legal advice in relation to the Northern Hillside and the Missing Link;
 - b. acknowledges its legal advice in relation to the issuing of a construction certificate for the Central Open Space area (CC11/0132);
2. Authorises the General Manager and/or appropriately delegated staff to work with Leda to find a lawful solution within a period ending 30 June 2013 to the unlawful works on the Northern Hillside and the Missing Link; and
3. Advises Leda in writing of the above.

The Motion was **Carried**

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

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Cr M Armstrong
Cr C Byrne

RESOLVED that the recommendations of the Confidential Committee be adopted.

The Motion was **Carried**

FOR VOTE - Unanimous

There being no further business the Meeting terminated at 12.46pm.



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