



**MINUTES
PLANNING & REGULATION
ORDINARY COUNCIL MEETING
Tuesday 15 September 2009**

Mayor: Cr W Polglase

Councillors: Cr P Youngblutt, Deputy Mayor
Cr D Holdom
Cr B Longland
Cr K Milne
Cr K Skinner
Cr J van Lieshout

COUNCIL'S CHARTER

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

Tweed Shire Council has the following charter:

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

The Meeting commenced at 4.55pm.

IN ATTENDANCE

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

Also present were Mr Mike Rayner (General Manager), Mr Troy Green (Director Technology & Corporate Services), Mr Ian Kite (Acting Director Engineering & Operations), Mr Vince Connell (Director Planning & Regulation), Mr David Oxenham (Director Community & Natural Resources), Mr Neil Baldwin (Manager Corporate Governance/Public Officer) and Mrs Maree Morgan (Minutes Secretary).

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING & REGULATION

6 [PR-CM] Construction Site Operating Hours

234

Cr K Skinner
Cr P Youngblutt

RESOLVED that Council adopts the following as a practice with respect to construction times for construction or demolition works so that unless prior approval has been obtained from Council, construction and or demolition work may only be carried out between the hours of 7.00am and 6.00pm Monday to Saturdays and no construction or demolition work may be carried out on Sundays or public holidays.

The Motion was **Carried**

FOR VOTE - Unanimous

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

235

Cr K Skinner
Cr P Youngblutt

RESOLVED that Council notes the August 2009 Variations to Development Standards under State Environmental Planning Policy No 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

8 [PR-CM] Local Government & Shires Association Request for Funds for Berrigan Shire Legal Costs for a Rural Subdivision Appeal

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**Cr D Holdom
Cr B Longland**

RESOLVED that:

1. The General Manager writes to the Local Government Association of NSW in respect of the request seeking monetary assistance with Berrigan Shire Council's legal costs for a Land and Environment Court appeal regarding a rural subdivision advising that in this instance it is not considered that monetary support is warranted.
2. The Director of Planning and Regulation reviews Section A5 (Subdivision Manual) of Council's Development Control Plan to ensure that the creation of lots with portions separated by significant distances (or in different Shires) for creation of dwelling entitlements, is prevented.
3. Upon completion of the review the Director of Planning & Regulation provides a report to Council on the findings of the review.

The Motion was **Carried**

FOR VOTE - Unanimous

9 [PR-CM] Planning Reform Unit - Draft Pottsville Locality Plan and Development Control Plan

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**Cr B Longland
Cr D Holdom**

RESOLVED that:

1. The report on Planning Reform Unit - Draft Pottsville Locality Plan and Development Control Plan be received and noted.
2. The amended draft Pottsville Locality Plan and Development Control Plan, incorporating the amendments raised in this report, be publicly exhibited for a minimum period of 30 days, during which a community workshop is to be locally held, in accordance with section 74E of the *Environmental Planning Assessment Act 1979*.

3. Following public exhibition a further report addressing all public submissions is to be submitted to Council.

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AMENDMENT

Cr K Milne
Cr J van Lieshout

PROPOSED that:

1. The report on Planning Reform Unit - Draft Pottsville Locality Plan and Development Control Plan be received and noted.
2. The amended draft Pottsville Locality Plan and Development Control Plan, incorporating the amendments raised in this report, be publicly exhibited for a minimum period of 60 days, during which a community workshop is to be locally held, in accordance with section 74E of the *Environmental Planning Assessment Act 1979*.
3. Following public exhibition a further report addressing all public submissions is to be submitted to Council.

The Amendment was **Lost**

FOR VOTE - Cr K Milne, Cr J van Lieshout

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

The Motion was **Carried**

FOR VOTE - Unanimous

- 10 [PR-CM] Development Application DA08/1161 for a Town House Development Comprising Eight (8) Attached Dwellings at Lot 1 and 2 DP 568733; Lot 9 DP 33501, Pacific Highway, Banora Point

DECLARATION OF INTEREST

Cr D Holdom declared a Non-Pecuniary Interest in this item, left the Chamber at 5.18PM and took no part in the discussion or voting. The nature of the interest is in relation to personal matters.

Cr W Polglase declared a Non-Pecuniary Interest in this item, left the Chamber at 5.18PM and took no part in the discussion or voting. The nature of the interest is in relation to personal matters.

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Cr B Longland

Cr J van Lieshout

RESOLVED that Development Application DA08/1161 for a town house development comprising eight (8) attached dwellings at Lots 1 and 2 DP 568733, Lot 9 DP 33501 Pacific Highway, Banora Point be refused for the following reasons:-

1. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated compliance with the development standard as being unreasonable or unnecessary in accordance with State Environmental Planning Policy No. 1 – Development Standards.
2. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated due consideration or compliance with the 2(a) zone objectives within Clause 11 of the Tweed Local Environmental Plan 2000, as the proposed development does not provide for and maintain a low density residential environment with a predominantly detached housing character and amenity.
3. Pursuant to Section 79C(1)(a)(i) the development proposal is not consistent with Clause 51A of the Tweed Local Environmental Plan 2000, as the proposed density of the development is greater than one dwelling per 450m² of site area.
4. Pursuant to Section 79C(1)(c) the development site is not considered suitable for the development as proposed.
5. Pursuant to Section 79C(1)(e) the proposed development, is not within the public interest.
6. Specialist reporting has not been satisfactorily undertaken to determine the nature and extent of the contamination of the land because of the existing underground petroleum tanks. This information is required to enable Council to determine whether the land is suitable for the proposed use.

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr D Holdom, Cr W Polglase

Cr W Polglase has returned from temporary absence at 05:21 PM

Cr D Holdom has returned from temporary absence at 05:21 PM

- 11 **[PR-CM] Development Application DA08/1170 for a Two (2) Lot Subdivision at Lot 1 DP 1073137, No. 19 and 43 Turners Road, Wardrop Valley**

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**Cr D Holdom
Cr K Milne**

PROPOSED that Development Application DA08/1170 for a two (2) lot subdivision at Lot 1 DP 1073137, No. 19 & 43 Turners Road, Wardrop Valley be refused for the following reasons:-

1. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated compliance with the development standard as being unreasonable or unnecessary in accordance with State Environmental Planning Policy No. 1 – Development Standards
2. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated due consideration or compliance with State Environmental Planning Policy (Rural Lands) 2008 as the proposal will result in:
 - development being incompatible with surrounding agricultural uses,
 - potential to create land use conflicts
 - the proposed subdivision not supporting or enhancing the agricultural production of the site
3. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated due consideration or compliance with the 1(a) zone objectives within Clause 11 of the Tweed Local Environmental Plan 2000, as the proposed development does not:
 - protect the rural character and amenity;
 - prevent the unnecessary fragmentation or development of land which may be needed for long-term urban expansion.
4. Pursuant to Section 79C(1)(a)(i) the development proposal in seeking a subdivision for a residential purpose is not consistent with Clause 20(2)(a) of the Tweed Local Environmental Plan 2000, as the proposed Lots are below the minimum requirement of 40 hectares.
5. Pursuant to Section 79C(1)(c) the development site is not considered suitable for the development as proposed.
6. Pursuant to Section 79C(1)(e) the proposed development will result in prohibited development with dwelling houses located on undersized allotments that do not enjoy dwelling entitlements.
7. Pursuant to Section 79C(1)(e) the proposed development, is not within the public interest as the development would create two undersized lots in the 1(a) Rural zone.

The Motion was **Lost**

FOR VOTE - Cr D Holdom, Cr B Longland, Cr K Milne

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

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**Cr P Youngblutt
Cr J van Lieshout**

RESOLVED that Development Application DA08/1170 for a two (2) lot subdivision at Lot 1 DP 1073137, No. 19 & 43 Turners Road, Wardrop Valley be approved, with the following conditions:-

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 2537-2 Revision A prepared by Chapman Surveys Pty Ltd and dated 7/8/08, 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 modifications to any existing public utilities situated within or adjacent to the subject property.

[GEN0135]

4. The development shall not result in damage to or loss of any threatened or endangered flora.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,552).

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

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

[PCC0275]

6. 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]

7. A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be prepared by an RTA accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.

[PCC0865]

8. Prior to the issue of a Construction Certificate the following detail in accordance with Councils Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.
- (a) copies of compliance certificates relied upon
 - (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
 - earthworks
 - roadworks, including
 - (a) The upgrade of Turners Road from its intersection with Smarts Road, to the existing driveway access servicing proposed Lot 2, to provide a 6m formation with full width gravel pavement, minimum 150mm roadbase depth in accordance with Council's DCP – Section A5 – Subdivision Manual.
 - (b) Required road drainage and batters.
 - access, including
 - (c) Provision of a vehicular access providing a minimum 150mm depth roadbase from Turners Road to the property boundary of both proposed Lot 1 & 2.
 - stormwater drainage
 - sedimentation and erosion management plans
 - location of all service conduits (water, sewer, Country Energy and Telstra)

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

[PCC0985]

9. 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]

10. The Construction Certificate Application shall include a detailed Stormwater Management Plan (SWMP) prepared in accordance with Councils *Development Design Specification D7 - Stormwater Quality*.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0225]

12. Civil work in accordance with a development consent must not be commenced until:-

- (a) a construction certificate for the civil work has been issued in accordance with Councils Development Design and Construction Specification C101 by:

- (i) the consent authority, or
- (ii) an accredited certifier, and

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

- (i) has appointed a principal certifying authority,
- (ii) has appointed a Subdivision Works Accredited Certifier (SWAC) in accordance with Tweed Shire Council's Development Control Plan, Part A5 - Subdivision Manual, Appendix C, with accreditation in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the SWAC shall possess accreditation in the following categories:

C4: Accredited Certifier – Stormwater management facilities construction compliance

C6: Accredited Certifier – Subdivision road and drainage construction compliance

- (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment,
- (iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and

- (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the civil work.

[PCW0815]

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

[PCW0835]

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

[PCW0985]

DURING CONSTRUCTION

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

[DUR0005]

16. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

- A. Short Term Period - 4 weeks.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

- B. Long term period - the duration.

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

[DUR0215]

18. Access to the property is to be provided in accordance with Chapter 4.1.3 (2) of Planning for Bushfire Protection 2006, except where varied by these conditions.

[DUR0585]

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

[DUR0815]

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

[DUR0985]

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

[DUR0995]

22. 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]

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

[DUR1845]

24. Any damage caused to public infrastructure during construction of the development shall be repaired in accordance with Council's Development Design and Construction Specifications prior to the issue of a Subdivision Certificate.

[DUR1875]

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

[DUR2015]

26. 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]

USE

27. A roof catchment water supply source shall be provided for domestic purposes where a Council reticulated supply is unavailable. Any domestic water supply roof collection system is to be fitted with a first flush device. Minimum storage tank capacity shall reflect the dry seasonal periods experienced with the locality and shall be separate to any fire fighting requirements stipulated by the NSW Rural Fire Services. Installation, water collection, and maintenance of rainwater tanks used for drinking purposes must comply with NSW Health requirements.

[USENS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

[PSC0005]

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

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

[PSC0215]

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

[PSC0725]

31. Prior to the issue of a Subdivision Certificate, Works as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council Development Control Plan A5 - Subdivisions Manual and Councils Development Design and Construction Specification, D13 - Engineering Plans.

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

- (a) the constructed Turners Road pavement and associated drainage and batters are contained within the nominated road reserve.

(b) the plans accurately reflect the Work as Executed.

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

[PSC0735]

32. 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]

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

- Future property owners shall be advised that proposed Lots 1 and 2 do not have a dwelling entitlement and rely on existing use rights in accordance with the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000.

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]

34. Submit to Council's property officer an appropriate plan indicating the rural address number to both new and existing lots for approval. Prior to the issue of a Subdivision Certificate, each lot shall have its' rural address number displayed in accordance with Council's "Rural Addressing Policy".

[PSC0845]

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

[PSC0855]

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

[PSC0865]

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

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 7.6 and Councils Application for Subdivision Certificate including the attached notes.

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

[PSC0885]

38. Prior to the application for a **Subdivision Certificate**, Council will undertake an inspection of the completed roadworks and once satisfied that all conditions of consent have been complied with, will issue a Compliance Certificate or the following:-

- (a) Compliance Certificate - Roads
- (b) Compliance Certificate – Drainage

Note:

- 1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a

certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 – Subdivisions Manual and Councils Development Design and Construction Specifications.

2. The fee associated with Council's inspections is subject to Council's Fees and Charges, current at the time of payment.

[PSC0915]

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

[PSC0925]

40. Prior to the issue of a Subdivision Certificate a properly dimensioned plan shall be submitted to Council for approval, showing the position of fences, structures (including the existing dwelling on proposed Lot 1) and the road formation, in relation to the proposed boundaries along Turners Road.

1. Any encroaching boundary fence is to be removed/relocated to the correct alignment.
2. Any encroaching part of the existing dwelling on proposed Lot 1 encroaching into the Turners Road road reserve shall be removed.

[PSC0945]

41. Prior to the issue of a subdivision certificate the applicant is required to lodge an application to operate an onsite sewerage management system for each individual dwelling under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issues with an approval.

[PSCNS01]

42. Where the road formation of Turners Road encroaches into private property, the submitted Subdivision Certificate must incorporate appropriate road widening within the subject allotment (generally taken to the existing fence line) to encompass such encroachments.

Any such road widening shall be dedicated to Council, at no cost to Council.

[PSCNS02]

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

1. At the commencement of subdivision the property around the existing dwellings to a distance of 20 metres 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.'

The Motion was **Carried**

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

NOTE: A RESCISSION MOTION HAS BEEN RECEIVED IN RELATION TO ITEM 11

12 [PR-CM] Development Application DA08/0708 for a Disability Ramp and Stairs to the Murwillumbah Historical Museum at Lot 1 Section 30 DP 758739, No. 2 Queensland Road, Murwillumbah

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**Cr B Longland
Cr D Holdom**

RESOLVED that that Development Application DA08/0708 for a disability ramp and stairs to the Murwillumbah Historical Museum at Lot 1 Section 30 DP 758739, No. 2 Queensland Road, Murwillumbah be approved

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan No's. DA1B Revision B (prepared by Paul Berkemeier and dated 21 October, 2008) as amended in red and DA2C(ii) Revision D (prepared by Paul Berkemeier and dated 3 June, 2009) as amended in red, 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. Photoarchiving of the construction process, including before and after the proposed development is to be undertaken.
4. The disabled ramp must comply with AS1428.1, 2001. In particular, the ramp must be provided with a kerb or kerb rail on both sides and the handrail must return 180 degrees at the ends. Full details of the ramp, including details of tactile indicators must be provided with the application for construction certificate.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. A detailed plan of landscaping is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate. This plan is to incorporate the existing raised garden beds on the northern side of the proposed stairs. The proposed vegetation is to provide suitable screening of the stairs from the Queensland Road frontage.
6. Prior to issue of construction certificate, detailed plans are to be submitted to the satisfaction of Council's General Manager or his delegate incorporating the following:
 - planter box at RL11.05 to allow for overhanging vegetation to screen the proposed rendered vertical wall between the upper landing and the landing at RL8.65.
 - replacement of the existing concrete landing with a timber deck and replacement of the proposed tubular steel handrail to the ramp and stairs with a hardwood timber rail in accordance with the recommendations of the Heritage Impact Statement (prepared by David Scobie Architects and dated 16 September, 2008).

[PCC0585]

PRIOR TO COMMENCEMENT OF WORK

7. 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.
8. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least **2 days** prior to work commencing. [PCW0215]
9. **Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003**, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out: [PCW0225]
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the site is prohibited.

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

[PCW0255]

DURING CONSTRUCTION

10. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

11. 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]

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

[DUR0405]

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

[DUR0415]

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

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

[DUR1005]

15. Landscaping of the site shall be carried out and maintained in accordance with the submitted/approved landscaping plans.

[DUR1045]

16. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy

provisions of Part D-3 and their requirement to comply with AS1428.

[DUR1685]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

17. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section
18. 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

The Motion was **Carried**

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

- 13 [PR-CM] Development Application DA08/1216 for a Dwelling & Demolition of Existing Dwelling at Lot 2 DP 501165 No. 10a Boomerang Street, Kingscliff**

243

Cr D Holdom
Cr B Longland

RESOLVED that Development Application DA08/1216 for a dwelling & demolition of existing dwelling at Lot 2 DP 501165, No. 10a Boomerang Street Kingscliff be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects as amended and Plan Nos 037-01 issue H, 037-02 issue K, 037-03 issue H, 037-04 issue K, 037-06 issue M, 037-12 issue G, 037-30 issue J, 037-20 issue L, 037-21 issue L, prepared by Gary Grieve Design and dated July 08, 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. Landscaping is to be provided and maintained in accordance with the approved plans and any additional landscaping on the site is to be limited to a maximum growth height of 24.65m AHD so as facilitate the view sharing considerations accommodated by the development.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

4. 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]

5. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control works

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

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

[PCC1145]

6. 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]

PRIOR TO COMMENCEMENT OF WORK

7. 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]

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

[PCW0225]

9. Residential building work:

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

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

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

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

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

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

[PCW0235]

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

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

[PCW0245]

11. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be
-

erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

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

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

[PCW0255]

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

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

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

[PCW0985]

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

[PCW1005]

DURING CONSTRUCTION

14. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

[DUR0245]

16. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the

Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

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

[DUR0395]

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

[DUR0405]

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

[DUR0415]

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

[DUR0445]

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

[DUR0645]

22. 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 Development Control Plan.

Please note timber retaining walls are not permitted.

[DUR0835]

23. 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]

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

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

[DUR1005]

25. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- [DUR1875]
26. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.
- [DUR1945]
27. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
- [DUR2185]
28. 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]
29. 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]
30. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
- [DUR2515]
31. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.
- [DUR2545]
32. 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]

33. The structure is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the 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 effect or be affected by the sewer main.

[DUR2645]

34. A Sewer manhole is present on this site. This manhole is to be uncovered and if necessary, application shall be made to Council's Engineering & Operations Division for the raising of the manhole.

[DUR2655]

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

[DUR2705]

36. During construction the Principal Certifying Authority is to be provided with a Registered Surveyors' floor level certificate at each floor platform stage and when the roof framework is in place, to confirm that the height of the building is proceeding in accordance with the approved plans.

37. All externally mounted equipment such solar panels, other than antennas are not to exceed the maximum allowed construction height of 24.555m AHD.

[DURNS02]

38. A new water meter service is to be provided to the property at the Boomerang Street frontage and arrangement made with Council's Water Unit for the removal of the existing service located on Rob Roy Crescent.

[DURNS03]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

39. 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]

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

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

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

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

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

[POC0265]

41. 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]

42. 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]

USE

43. 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]

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

[USE0505]

The Motion was **Carried**.

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

- 14 [PR-CM] Development Application DA09/0187.02 for an Amendment to Development Consent DA09/0187 for Replacing an Existing Old Structure with General Work Shed/Garage- Boat Storage Structure & SEPP 1 Objection to Building Setback - Correction of Setback Di

244

Cr D Holdom
Cr P Youngblutt

RESOLVED that Development Application DA09/0187.02 for an amendment to development consent DA09/0187 for replacing an existing old structure with general work shed/garage- boat storage structure & SEPP 1 objection to building setback – correction of setback dimensions at Lot 14 DP 729137, No. 797 Clothiers Creek Road Clothiers Creek be approved and the consent be amended as follows:

1. Condition No. 1 is to be deleted and replace with Condition No. 1A which reads as follows:

1A. *The development shall be completed in accordance with the plans approved by Council, amended plans and the Statement of Environmental Effects, except where varied by conditions of this consent.*
[GEN0015]

2. The following new Condition No. 2.1 is to be added under the GENERAL heading:

2.1 *Landscape screening along the roadside frontage of the proposed work shed/garage is required to the satisfaction of the General Manager or his delegate.*

[GENS01]

The Motion was **Carried**

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

15 [PR-CM] Development Application DA05/0824.07 for a Section 96 Amendment to DA05/0824 for Multi Dwelling Housing Comprising Four (4) Units at Lot 4 Section 2 DP 7309, No. 26 Seaview Street, Kingscliff

245

Cr B Longland
Cr K Milne

PROPOSED that Development Application DA05/0824.07 for a Section 96 amendment to DA05/0824 for multi dwelling housing comprising four (4) units at Lot 4 Section 2 DP 7309, No. 26 Seaview Street, Kingscliff be refused.

246

AMENDMENT

Cr B Longland
Cr J van Lieshout

RESOLVED this item be deferred to undertake further consultation.

The Amendment was **Carried**

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

The Amendment on becoming the Motion was **Carried** - (Minute No 246 refers)

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

AGAINST VOTE - Cr D Holdom

- 16 [PR-CM] Development Application DA08/1118.02 for an Amendment to Development Consent DA08/1118 for a Fruit and Vegetable Roadside Stall and Signage at Lot 11 DP 835413, No. 2 Boulder Close, Byangum

247

Cr P Youngblutt
Cr J van Lieshout

RESOLVED that Development Application DA08/1118.02 for an amendment to Development Consent DA08/1118 for a fruit and vegetable roadside stall and signage at Lot 11 DP 835413, No. 2 Boulder Close, Byangum, be approved and the consent be amended as follows:-

1. Condition No. 1 is to be deleted and replaced with Condition No. 1A which reads as follows:

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

- Plan Nos 2209D prepared by P Hurcombe and dated 06/08/09,
- Plan Nos 1 prepared by Avraham Mishtler and dated 11 August 2009,
- *Stall plan. Unauthored and dated 3/3/09 and*
- *Site plan and signage plan. Unauthored and dated 3/3/09,*

(as amended in Red), except where varied by the conditions of this consent.

[GEN0005]

2. The insertion of the USE heading after Condition No. 29

USE

3. Insert Condition No. 27.1 which reads as follows:

27.1 A detailed plan of landscaping is to be submitted and approved by Council's General Manager or his delegate prior to the issue of an Occupation Certificate.

[POCNS01]

PROCEDURAL MOTION

248

Cr J van Lieshout
Cr D Holdom

RESOLVED that the Motion be put.

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

The Motion was **Carried**

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

17 [PR-CM] MP08_0034 - Submission to the Department of Planning regarding Environmental Assessment (EA) for a Residential Subdivision at Lots 2 and 3 DP 244652 Urliup, Bilambil and Hogans Road, Bilambil Village

249

Cr K Milne
Cr B Longland

RESOLVED that Standing Orders be suspended to discuss Item 17 of the Council Agenda at 6.03PM.

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

Cr P Youngblutt left the meeting at 06:03 PM

Cr P Youngblutt has returned from temporary absence at 06:06 PM

250

Cr D Holdom
Cr P Youngblutt

RESOLVED that Standing Orders be resumed.

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

251

Cr K Milne
Cr B Longland

RESOLVED that Council endorses the preparation of a submission to the Department of Planning regarding MP08_0034 Environmental Assessment (EA) for

a residential subdivision at Lots 2 and 3 DP 244652 Urliup, Bilambil and Hogans Road, Bilambil Village based on the matters identified in the report and as follows:

1. Reduction in the number of lots to a maximum of 10 lots, to be consistent with the current and existing lot sizes and character of the village, which is especially significant due to the impact on the important historic aspects of the village, particularly in regard to the adjacent Hall, and the charming aesthetic, rural and World Heritage values of the village and its tourist potential being prominent on these scenic routes.
2. A reduction in number of lots to that required, if less than 10, that will have no further impact to Bilambil Creek, due to the poor state of the Bilambil Creek system, and that will enhance the waterways system to the maximum potential.
3. The 50 metre riparian buffer to be strictly used for environmental purposes and not for any road, footpath, bike track or other purposes.
4. No dogs or cats allowed due to the platypus and other wildlife utilising the riparian zone.
5. A dense vegetation buffer around the perimeter of the development and Hall as a preference to the walls proposed and due to the potential for graffiti.
6. Footpaths and driveways to be included for the whole development and extend to the existing general store.
7. Adequate road width to accommodate parking on both sides of the road.
8. No entry statement allowed.
9. The endangered Macadamia tree to be fenced off to ensure the greatest opportunity for new germination and species recovery.
10. Consideration on the impact of traffic in relation to the Kennedy Drive Catchment.
11. Consideration of composting toilets.
12. Consideration of the full range of services and facilities traditionally associated with a rural village. As outlined in the Council report the general store is not appropriate but there may be other needs, though the placement of children's activities is not desirable due to the overhead powerlines.
13. As a precautionary measure long term occupation of the site is not desirable due to a precautionary approach that should be adopted in relation to the close proximity of the powerlines.
14. Further consideration by the developer of flooding and climate change impacts, especially in relation to the extremely high rainfall in this area and in relation to affect on neighbours and village.

15. Strict building design guidelines to complement the existing village character.
16. Desire for further sustainability and energy efficiency measures to be incorporated, and concerns, especially in relation to the proposal for air-conditioning, double glazing and orientation of the buildings. Preference for solar and especially solar hot water systems to be installed.
17. Further consideration of issues outlined in the community submissions.
18. Request for landscaping plans to be submitted for public comment, as this is a significant ecological location and local expert knowledge is important in this matter.

The Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr B Longland, Cr K Milne

AGAINST VOTE - Cr D Holdom, Cr W Polglase, Cr J van Lieshout

- 18 **[PR-CM] Environmental Assessment Major Project 07_0179, Mixed Use Development - Lots 184-187 and 191-194 DP 259164 and Lots 20-23 DP 31208, Tweed Coast Road and Hastings Road, Cabarita**

252

**Cr B Longland
Cr J van Lieshout**

RESOLVED that the matters discussed in this report, in respect of the preferred project plan for Major Project 07_0179, be endorsed by Council and forwarded to the Department of Planning as a submission and that the submission should convey Council's clear intention to preserve the three storey height limit in this locality.

253

AMENDMENT 1

**Cr K Milne
Cr B Longland**

PROPOSED that the matters discussed in this report, in respect of the preferred project plan for Major Project 07_0179, be endorsed by Council and forwarded to the Department of Planning as a submission with the inclusion of the following:-

1. Council has a strong desire to maintain the full continuous rear laneway access as described in the Tweed LEP, to achieve the aims of business useability and streetscape aesthetics.

2. Inappropriate over sizing of the supermarket for this small village, especially being located in the centre of the main business hub, with potential traffic and parking problems impacting on useability of the village and other businesses, and particularly as street parking spaces are foreseen to be inappropriately utilised, despite the provision of underground car parking.
3. Concern with predominance of the supermarket and residential components of the development and thereby the lack of opportunity for a full diversity of business such as office space or community orientated services.
4. Concerns with provision of internal public open space off the streetscape and the lack of utilisation of scenic vistas for public viewing.
5. Desire for further sustainability and energy efficiency measures and concerns especially in relation to the energy required for the transportation of goods to the first floor location of the supermarket on an ongoing basis.
6. Concerns with the extensive excavations for car parking due to the problems recently encountered with groundwater.

The Amendment 1 was **Lost**

FOR VOTE - Cr B Longland, Cr K Milne

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

AMENDMENT 2

Cr K Milne

Cr B Longland

PROPOSED that the matters discussed in this report, in respect of the preferred project plan for Major Project 07_0179, be endorsed by Council and forwarded to the Department of Planning as a submission with the inclusion of concerns about inappropriate over sizing of the supermarket for this small village, especially being located in the centre of the main business hub, with potential traffic and parking problems impacting on useability of the village and other businesses, and particularly as street parking spaces are foreseen to be inappropriately utilised, despite the provision of underground car parking.

The Amendment 2 was **Lost**

FOR VOTE - Cr B Longland, Cr K Milne, Cr J van Lieshout

AGAINST VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr W Polglase

The Motion was **Carried** (refer Minute No 252).

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

AGAINST VOTE - Cr K Skinner, Cr K Milne, Cr W Polglase

ADJOURNMENT OF MEETING

Adjournment for dinner at 6.35pm.

RESUMPTION OF MEETING

The Meeting resumed at 7.35pm.

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