



TWEED
SHIRE COUNCIL

Mayor: Cr B Longland (Mayor)

Councillors: P Youngblutt (Deputy Mayor)
D Holdom
K Milne
W Polglase
K Skinner
J van Lieshout

Minutes

Planning and Regulation Reports

Ordinary Council Meeting

Tuesday 17 July 2012

held at Murwillumbah Cultural and Civic Centre
commencing at 10.30am

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 10.30am.

IN ATTENDANCE

Cr B Longland (Mayor), Cr P Youngblutt (Deputy Mayor), Cr D Holdom, Cr K Milne, Cr W Polglase, Cr K Skinner and Cr J van Lieshout.

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

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

1

**Cr K Skinner
Cr K Milne**

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

The Motion was **Carried**

FOR VOTE - Unanimous

9 [PR-CM] Aboriginal Cultural Heritage Management Plan update and Memorandum of Understanding

2

**Cr D Holdom
Cr K Milne**

RESOLVED that:

1. The Memorandum of Understanding between Tweed Shire Council, the Tweed Shire Aboriginal Advisory Committee and Converge Heritage + Community Pty Ltd guiding the preparation of the Tweed Shire Aboriginal Cultural Heritage Management Plan is endorsed by Council.
2. The Mayor and General Manager be authorised to sign the Memorandum of Understanding on behalf of Council.

The Motion was **Carried**

FOR VOTE - Unanimous

10 [PR-CM] Tweed Development Control Plan 2008 - Section B15 Seabreeze Estate Pottsville, Amendment No. 1

3

**Cr D Holdom
Cr K Milne**

PROPOSED that:

1. This item be deferred to the August meeting.
2. The General Manager organises a follow up workshop between the Executive Management Team, Councillors and Department of Education and Training representatives regarding an update on possible school sites in and around the Pottsville locality.

4

AMENDMENT

**Cr W Polglase
Cr P Youngblutt**

RESOLVED

1. The preparation of an amendment to Section B15 – Seabreeze Estate, Pottsville of the Tweed Development Control Plan 2008 to remove the identification of the school site within Seabreeze Estate be endorsed;
2. The amended Tweed Development Control Plan Section B15 – Seabreeze Estate, Pottsville be publicly exhibited for a minimum period of 30 days, in accordance with section 74E of the *Environmental Planning Assessment Act* 1979 be endorsed; and
3. Following public exhibition of Draft Tweed Development Control Plan, Section B15 – Seabreeze Estate, Pottsville, a further report is submitted to Council on the public consultation.
4. Council convenes a community meeting in Pottsville during the exhibition period.

The Amendment was **Carried**

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

The Amendment on becoming the Motion was **Carried** - (Minute No 443 refers)

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

AGAINST VOTE - Cr D Holdom, Cr K Milne

11 [PR-CM] PP10/0001 Boyds Bay Garden World Planning Proposal - Lot 10 DP 1084319 Banksia Street - Referral to Department of Planning and Infrastructure to Have the Plan Made

5

Cr W Polglase

Cr K Skinner

RESOLVED that Council endorse:

1. Planning Proposal PP10/0001, Lot 10 DP 1084319 Banksia Street, Tweed Heads West, commonly known as the Boyds Bay Garden World site, for rezoning from 1(a) Rural to 3(c) Commerce and Trade, as provided as in Attachment 1 to this report be referred to the Department of Planning and Infrastructure to be made in accordance with section 59 of the Environmental Planning and Assessment Act 1979; and
2. A site-specific Development Control Plan be prepared for the site consistent with the requirements of Draft Tweed Local Environmental Plan 2000 (Amendment No.93), Clause 53G.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

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

Cr K Milne declared a pecuniary Interest in this item, left the Chamber and therefore took no part in the discussion or voting on this item. The nature of the interest is that a family member is the proponent of the Development Application.

6

Cr J van Lieshout

Cr B Longland

RESOLVED that this item be deferred to the August Council meeting to allow for a Workshop to include the proponent, Councillors and Council staff, to address the issues.

Cr D Holdom left the meeting at 12:07 PM

Cr D Holdom has returned from temporary absence at 12:08 PM

The Motion was **Carried**

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

13 [PR-CM] Development Application DA12/0098 for a Free Range Poultry Farm (Maximum 4,500 Birds) Including 8 Moveable Sheds at Lot 1 DP 881996 No. 576 Cudgen Road, Cudgen

Cr K Milne has returned from temporary absence at 12:15 PM

Cr P Youngblutt left the meeting at 12:15 PM

7

Cr D Holdom
Cr J van Lieshout

RESOLVED that amended Development Application DA12/0098 for a free range poultry farm (maximum 4,500 birds) including 8 moveable sheds at Lot 1 DP 881996 No. 576 Cudgen Road, Cudgen be refused for the following reasons:

1. The activity as proposed cannot be accommodated within the subject allotment (specifically having regard to buffers/separation distances) in accordance with accepted industry and regulatory guidelines, that being the, Environmental Guidelines for the Australian Egg Industry (2008), Model Code of Practise for the Welfare of Animals 4th Ed (2002) and the Living and Working in Rural Areas Handbook (2007).
2. The proposed development does not satisfy the provisions of the Tweed Local Environmental Plan 2000 specifically in regard to:
 - (a) Clause 4: Aims of the plan as the application does not have adequate regard for the environmental and residential amenity qualities of the area.
 - (b) Clause 8(1): Consent Considerations- Council is not satisfied that the development adequately satisfies the primary objective of the zone or will not have an unacceptable cumulative impact on the community, locality or catchment arising from the proposed operation of the development.
3. The existing driveway access (which is proposed as the only access for the operation of the poultry farm) is not considered adequate for the operation.
4. The application as amended (15 June 2012) satisfies the definitional criteria of "Designated Development" under the Environmental Planning & Assessment Act 1979 as set out in the Schedule 3 of the Environmental Planning and Assessment Regulation 2000 – Clause 21 Livestock Intensive Industries, as there is an approved dwelling within 150m of the fenced free range area. However, the application has not been lodged as Designated Development.
5. Insufficient information has been supplied in regards to;
 - (a) community amenity and health;
 - (b) environmental impacts;

- (c) animal welfare; and
 - (d) internal site management
- to enable a proper assessment of the application.

6. The application is not considered to be in the public interest.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

ABSENT. DID NOT VOTE - Cr P Youngblutt

14 [PR-CM] Development Application DA10/0516 for a Telecommunications Facility at Lot 17 DP 1157351 No. 57 Elkhorn Road, Cobaki Lakes

8

**Cr D Holdom
Cr W Polglase**

RESOLVED that Development Application DA10/0516 for a telecommunications facility at Lot 17 DP 1157351; No. 57 Elkhorn Road, Cobaki Lakes be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Revised Statement of Environmental Effects and Plan Nos Q109462 S1 Index (Locality Plan & Site Access); Q109462 S1-1 Index (Site Layout) and Q109462 S3 Index prepared by Telstra and dated 13 December 2010, 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. The approved development shall not result in any clearing of native vegetation without prior approval from the relevant authority.
[GEN0290]
5. Pruning or removal of vegetation to establish and maintain a 10m inner protection zone around the facility to meet bushfire safety standards or to provide access to the site must be carried out to the minimum extent necessary.
[GENNS01]
6. The mobile phone tower may not exceed a maximum height of 135.36m AHD at the location given including any attached antenna, aerials or other appurtenances.

7. The tower is to be lit with a low intensity red obstacle light in accordance with the Manual of Standards for Part 139 of the Civil Aviation Safety Regulations (refer MOS Part 139-Aerodromes, Chapter 9, Section 9.4 <<http://www.casa.gov.au/wcmswr/assets/main/rules/1998casr/139/139mfull.pdf>>).
8. If the obstacle light is rendered unserviceable for any reason the proponent (Telstra) must ensure the light is repaired *within 24* hours maximum for the continued safe operation of aircraft within the vicinity.
9. A separate application must be submitted to Gold Coast Airport for any equipment or crane planned to be used in the installation of the mobile phone tower that exceeds the maximum height of the OLS at 82.42m AHD.
10. Proponent is to notify Gold Coast Airport 48 hours prior to commencing works.
11. The proponent must notify Gold Coast Airport upon completion of the communications tower.
12. Finished height must be provided to Gold Coast Airport upon completion (in AHD), so that it can update its plans and other records for the Airport and its surrounds.
[GENNS02]
13. Any construction certificate issued for this development must include details for the construction of the access track extension.
[GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

14. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.
[PCC0945]
15. 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 workswill not be approved until prior separate approval to do so has been granted by Council under Section 68 of the Local Government Act.
 - a) Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
 - b) Where Council is requested to issue a construction certificate for civil works associated with a subdivision consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under Section 68 of the Local Government Act will then NOT be required.
[PCC1145]
16. Erosion and Sediment Control shall be provided in accordance with the following:
 - (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.

- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

- 17. Prior to the issue of a Construction Certificate, a Construction and Environmental Management Plan, generally in accordance with Appendix F of the Revised Statement of Environmental Effects dated May 2012, must be submitted and approved in writing by the General Manager or delegate officer. Works shall be carried out in accordance with the approved details.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

- 18. 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]

- 19. 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]

- 20. 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]

21. 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]

22. 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]

DURING CONSTRUCTION

23. 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]

24. 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]

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

[DUR0245]

26. 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]

27. 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]

28. 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]

29. 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]

30. 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]

31. 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]

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

[DUR2015]

33. 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]

34. 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]

35. During construction the applicant must ensure that no damage or detrimental effect is caused to the shared driveway (within the Right of Carriageway) by construction vehicles.

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

36. 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]

37. Prior to this issue of an Occupation Certificate the Principal Certifying Authority shall be provided with certification from a practising structural engineer which states that the completed telecommunications tower will be structurally adequate for its intended use in this location.

[POCNS01]

USE

38. 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]

39. 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]

40. 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]

41. All commercial/industrial/residential wastes shall be collected, stored and disposed of in accordance with any approved Waste Management Plan or to the satisfaction of the General Manager or his delegate.

[USE0875]

CONDITIONS OF APPROVAL IN RELATION TO SECTION 79BA OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

1. At the commencement of building works and in perpetuity the entire leased area 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'.
2. The equipment shelter shall comply with section 8 (BAL 40) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas'.

Cr P Youngblutt has returned from temporary absence at 12:16 PM

Cr W Polglase left the meeting at 12:16 PM

Cr W Polglase has returned from temporary absence at 12:17 PM

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

15 [PR-CM] Development Application DA10/0642 for a Three Storey Mixed Use Tourist and Residential Development Comprising 24 Accommodation Units Including 3 x 3 Bedroom Tourist/Residential Units, 3 x 3 Bedroom Residential Units, 12 x 2 Bedroom Tourist/Reside

9

Cr D Holdom

Cr W Polglase

RESOLVED that Council endorses this report and submits it to the NSW Department of Planning and Infrastructure as the formal response to the Preferred Project Report (PPR) for a three storey mixed use tourist and residential development comprising 24 accommodation units including 3 x 3 bedroom tourist/residential units, 3 x 3 bedroom residential units, 12 x 2 bedroom tourist/residential units and 6 x 2 bedroom residential units at Lots 1-3 Section 1 DP 29748, Lot 4 Section 1 DP 31209 Nos. 2-6 Tweed Coast Road and No. 10 Cypress Crescent, Cabarita Beach.

The Motion was **Carried**

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

ADJOURNMENT OF MEETING

Adjournment for lunch at 12:37pm.

RESUMPTION OF MEETING

The Meeting resumed at 12:30pm.

16 [PR-CM] Development Application DA11/0628 for Alterations and Additions to Detached Dual Occupancy at Lot 3 Section 6 DP 17606 No. 14 Marine Parade, Kingscliff

10

Cr D Holdom
Cr P Youngblutt

RESOLVED that:

1. State Environmental Planning Policy No. 1 objection to Clause 16 of the Tweed Local Environmental Plan 2000 regarding building height be supported and the concurrence of the Director-General of the Department of Planning and Infrastructure be assumed.
2. Development Application DA11/0628 for alterations and additions to detached dual occupancy at Lot 3 Section 6 DP 17606 No. 14 Marine Parade, Kingscliff be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and:
 - Plan No. WD01 Issue H (Site Plan) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012
 - Plan No. WD02 Issue J (Ground Floor Plan) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012
 - Plan No. WD03 Issue J (Level 1 Floor Plan) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012
 - Plan No. WD04 Issue I (Upper Level Floor Plan) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012
 - Plan No. WD05 Issue J (Elevations: North West & South East) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012

- Plan No. WD06 Issue J (Elevations: North East & South West) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012
- Plan No. WD07 Issue J (Section A & B) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012
- Plan No. WD11 Issue B (Coloured Elevations: North West & South East) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012
- Plan No. WD12 Issue B (Coloured Elevations: North East & South West) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012
- Plan No. WD13 Issue C (Ground Floor Demolition Plan) as amended in red, Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 16 August 2010
- Plan No. WD14 Issue C (Level 1 Demolition Plan) as amended in red, Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 16 August 2010
- Plan No. WD16 Issue A (Sections C & D) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012.

except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

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

[GEN0135]

4. 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]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. 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]

6. A detailed plan of landscaping in accordance with the amended statement of landscaping intent (provided to Council 4 April 2012) is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.

[PCC0585]

7. Prior to issue of a Construction Certificate, the applicant is required to submit a Demolition Work Plan that encompasses all demolition activities, to the satisfaction of Council's General Manager or his delegate.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0005]

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

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

[PCW0215]

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

[PCW0225]

11. 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]

12. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one closet for every 15 persons or part of 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]

13. 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]

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. 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]

15. 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]

16. 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]

17. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of a new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCW1170]

DURING CONSTRUCTION

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

[DUR0005]

19. 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]

20. 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]

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

[DUR0245]

22. 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]

23. 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]

24. 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]

25. 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]

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

Please note timber retaining walls are not permitted.

[DUR0835]

27. 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]

28. 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]

29. Landscaping of the site shall be carried out in accordance with the approved landscaping plans.

[DUR1045]

30. 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]

31. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.

[DUR1945]

32. 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]

33. All stormwater from roofed and paved areas are to be connected directly into road drainage pits where available, kerb and gutter drainage canal or inter allotment drainage line where provided.

All drainage systems shall comply with AS 3500.

[DUR2305]

34. 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]

35. 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]

36. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR2535]

37. 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]

38. 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]

39. 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]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

40. 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]

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. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.

[POC0475]

43. 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

44. The nominated rear deep soil zones (as shown on Plan No. WD10 Issue F (Impervious calculation) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 28 March 2012 accompanying the application) are to be retained in perpetuity exclusively for the purposes of the growth of vegetation and mature trees.

[USENS01]

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

1. 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'.
2. Water to the proposed development to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

- 17 **[PR-CM] Review of Environmental Factors PTV12/0005 for Arkinstall Park Redevelopment (3 Stages) at Lot 1 DP 780163 Sullivan Street, Lot 296 DP 755740, Lot 1 DP 588267 Cunningham Street, Hourigan Street, Oxley Street, Robert Street and Cunningham Street,**

11

**Cr D Holdom
Cr J van Lieshout**

RESOLVED that:

- A. Following assessment of the Review of Environmental Factors for the Arkinstall Park Redevelopment it is determined that the activity is not likely to have a significant impact on the environment (including critical habitat) or threatened species, populations or ecological communities, or their habitats.
- B. PTV12/0005 application for the Arkinstall Park redevelopment (3 stages) at Lot 1 DP 780163 Sullivan Street, Lot 296 DP 755740, Lot 1 DP 588267 Cunningham Street, Hourigan Street, Oxley Street, Robert Street and Cunningham Street, Tweed Heads South be approved subject to the following conditions:

1. The development shall be completed in general accordance with the Review of Environmental Factors and the Addendum to Review of Environmental Factors prepared by Tweed Shire Council dated May 2012 and June 2012 respectively, except where varied by these conditions.

[PTV0010]

2. Prior to commencement of work all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the General Manager or his delegate. Erosion and sedimentation control devices shall be designed and installed in accordance with Council's Design Specification D7 - *Stormwater Quality* and Council's Construction Specification C211 - *Control Of Erosion and Sedimentation*.

All erosion and sedimentation controls shall be maintained throughout the period of construction.

[PTV0020]

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

[PTV0030]

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

Monday to Friday from 7.00am to 6.00pm

Saturday 8am to 1pm

No work to be carried out on Sundays or Public Holidays

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

[PTV0050]

5. 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.

[PTV0060]

6. Should any stage propose the construction or modification of a food preparation area (for the retail of food) a detailed food premise fit out plan shall be submitted for approval of the General Manager or his delegate prior to commencement of construction. All works shall comply with the approved fit out plan.

7. 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]
8. 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]
9. 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]
10. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.
- [DUR2425]
11. Should dewatering be required, these works shall not be carried out until a dewatering management plan has been submitted and approved to the satisfaction of the General Manager or his delegate. All work shall comply with that approved plan.
12. Should excavation greater than 1.5m below ground level be required these works shall not be carried out until an acid sulphate soil management plan has been submitted and approved to the satisfaction of the General Manager or his delegate. All works shall comply with the approved plan.
- [DURNS01]
13. 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]
14. 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]
15. 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]
16. Any car parking lighting and playing field lighting shall not spill beyond the boundary of the site. Lighting shall comply with AS 4282-1997 Control of the obtrusive effects of outdoor lighting.
- [USENS01]

17. A Habitat Restoration Plan must be prepared for the vegetation offset sites nominated as Swamp Sclerophyll Forest EEC offset at Avondale Park Tweed Heads prior to the removal of native vegetation from the site. Such plan must be prepared in accordance with Council's *draft Habitat Restoration Guidelines* and submitted to Council's Development Assessment Unit for approval. Such plan must describe how restoration works will be funded for a minimum 5 year period whilst restoration is undertaken and how the site will be managed thereafter.
18. Vegetation clearing is limited to works outlined on Pages 83-85 of the Review of Environmental factors and as listed in Appendix L: register of trees subject to disturbance (as amended June 2012). All trees to be retained must be protected in accordance with Australian Standard for the protection of Trees on development sites.
19. A registered Spotter-catcher must be present on site during all works that involve the clearing of native vegetation so as to minimise impacts to native fauna.
20. Hollow-bearing trees to be removed shall be inspected for the presence of animals by a suitably qualified person, prior to their removal. Where animals are found, works in the vicinity will cease until animals leave, or are captured for later release on another site. Nocturnal animals shall be released at dusk. Injured fauna shall be transferred to the care of a Northern Rivers Wildlife Carers recommended veterinarian.
21. A Compensatory Fauna Nest-Box Plan must be submitted to Council's Natural Resources Unit for approval within six months of the date of this approval. All reasonable opportunities to re-use hollows removed from trees on the site must be taken.
22. 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 works (as applicable).
23. A Traffic Control Plan, prepared by an RTA accredited person, in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be endorsed by Council prior to commencement of works (as applicable).
24. The development must provide a minimum of 12 disabled car parking spaces in accordance with Tweed Shire Council's Development Control Plan Part A2 - Site Access and Parking Code, (unless accepted otherwise by Council).

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

18 [PR-CM] Unauthorised Activity - Poultry Farm at Lot 1 DP881996 No. 576
Cudgen Road, Cudgen

12

Cr D Holdom
Cr P Youngblutt

RESOLVED that:

1. ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
2. Council pursues recovery of costs in relation to this matter in accordance with the advice prepared by Sparke Helmore Lawyers dated 13 June 2012.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

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