

Cr B Longland, Mayor

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



TWEED
SHIRE COUNCIL

Minutes

Planning and Regulation Reports **Ordinary Council Meeting** **Thursday 19 September 2013**

held at Murwillumbah Cultural and Civic Centre
commencing at 5.09pm

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 5.09pm.

IN ATTENDANCE

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

Also present were Mr Troy Green (Acting General Manager), Mr Ken Holdsworth (on behalf of Acting Director Technology and Corporate Services), Mr Patrick Knight (Director Engineering and Operations), Mr Vince Connell (Director Planning and Regulation), Ms Jane Lofthouse (on behalf of Director Community and Natural Resources), Mr Richard Adams (Manager Business and Economic Development), (Manager Mr Neil Baldwin (Manager Corporate Governance/Public Officer) and Mrs Meredith Smith (Minutes Secretary).

546

**Cr B Longland
Cr M Armstrong**

RESOLVED that Standing Orders be suspended to deal with Items 27, 35, 36, 37, 42 and 54 of the Agenda.

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

27 [PR-CM] Development Application DA13/0212 for a Change of Use of Existing Building to Car Repair Station at Lot 19 DP 23512 No. 45 Minjungbal Drive, Tweed Heads South

547

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that Development Application DA13/0212 for a change of use of existing building to car repair station at Lot 19 DP 23512 No. 45 Minjungbal Drive, Tweed Heads South be approved subject to the following conditions of consent:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos G2810 sheet 1, 2, 3 prepared by Gavin Duffie and dated 4:4:13, as amended in Red on the approved plans except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

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

[GEN0135]

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

[GEN0190]

5. The washing of vehicles is not permitted.

[GENNS01]

6. The site is to be serviced by vehicles not greater than 5 metres in length.

[GENNS02]

7. This consent permits four employees to be on the site at any one time.

[GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. 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]

9. A detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate. The landscaping is to provide adequate screening of the development as viewed from Minjungbal Drive.

[PCC0585]

10. Design detail shall be provided to address the flood compatibility of the proposed structure including the following specific matters:

- (a) Design flood level of RL 2.6m AHD.
- (b) All building materials used below Council's design flood level must not be susceptible to water damage.
- (c) Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level should to suitably treated to withstand continuous submergence in water and provide appropriate earth leakage devices.
- (d) Define adequate provision for the flood free storage for goods and equipment susceptible to water damage.

[PCC0705]

PRIOR TO COMMENCEMENT OF WORK

11. 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]

12. 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]

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

[PCW1065]

DURING CONSTRUCTION

14. 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]

15. The provision of 21 off street car parking spaces including parking for the disabled where applicable. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.

[DUR0085]

16. 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]

17. 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]

18. 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]

19. 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]

20. 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]

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

[DUR1045]

22. Exit signs which comply with Part E4.5 of the Building Code of Australia and are designed in accordance with Part E4.8 of the Building Code of Australia shall be installed.

[DUR1295]

23. Emergency lighting to comply with Part E4.2 of the Building Code of Australia shall be provided.

[DUR1305]

24. All hazardous and/or dangerous goods shall be handled and stored in a designated area away from stormwater drains. The designated area is to be:

- (a) Roofed;
- (b) Provided with a sealed floor; and

Bunded so as to hold 110% of the total quantity of goods stored. Bunded area(s) shall not be flood-labile and shall be provided with pump out facilities.

[DUR1635]

25. 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]

26. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia.

[DUR1705]

27. 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]

28. Hazardous or industrial waste must be stored and disposed of in a manner to minimise its impact on the environment including appropriate segregation for storage and separate disposal by a waste transporter licensed by NSW Office of Environment & Heritage.

[DUR2215]

29. 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]

30. 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 Plumbing Code of Australia and AS/NZS 3500.

[DUR2495]

31. 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]

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:

- * 45°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]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

33. 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]

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

[POC0225]

35. Section 94 Contributions

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

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

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

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

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

(a) Tweed Road Contribution Plan:

2.9298 Trips @ \$1365 per Trips \$3999

(\$1318 base rate + \$47 indexation)

S94 Plan No. 4

Sector2_4

[POC0395/PSC0175]

36. All landscaping work is to be completed in accordance with the approved plans prior to the issue of a final occupation certificate.

[POC0475]

37. Portable fire extinguishers containing an extinguishing agent suitable for the risk being protected must be installed in accordance with Australian Standard AS 2444 "Portable Fire Extinguishers - Selection and Location" and Part E1.6 of the Building Code of Australia.

[POC0515]

38. 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

39. 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]

40. All 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]

41. Hours of operation of the business are restricted to the following hours:

- * 8.00 am to 5.30 pm Monday to Friday
- * 8.00 am to 12.30 pm Saturday
- * No operations are to be carried out on Sundays or Public Holidays
- * All deliveries and pickups relating to the business are to occur within the approved hours

[USE0185]

[USE0185]

42. 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]

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

[USE0245]

44. All plant and equipment installed or used in or on the premises:

- (a) Must be maintained in a proper and efficient condition, and
- (b) Must be operated in a proper and efficient manner.

In this condition, "plant and equipment" includes drainage systems, infrastructure, pollution control equipment and fuel burning equipment.

[USE0315]

45. The use being restricted to the floor area designated on the approved plan.

[USE0415]

46. No items or goods are to be stored or displayed outside the confines of the premises.

[USE0445]

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

[USE0525]

48. All wastes shall be collected, stored and disposed of to the satisfaction of the General Manager or his delegate.

[USE0875]

49. All hazardous and/or dangerous goods shall be stored in accordance with requirements of WorkCover NSW.

[USE1035]

50. All containers, whether or not empty, which contain or once contained potentially contaminated materials, mechanical parts and the like shall be stored to the satisfaction of Council's General Manager or his delegate.

[USE1045]

51. The disposal of all wash water, oil, grease or other pollutants from the business shall be disposed of to the satisfaction of Council's General Manager or his delegate.

[USE1055]

52. No spray painting is to be undertaken at the site without prior written approval of Council's General Manager or his delegate.

[USE1065]

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

AGAINST VOTE - Cr K Milne, Cr G Bagnall

35 [PR-CM] Development Application DA03/0476.04 for an Amendment to Development Consent DA03/0476 for the Establishment of an Art Gallery/Coffee Shop to include a Refreshment Room and Extend Trading Hours on Saturdays including the Option of Live Music at Lo

Cr K Milne declared a Pecuniary Interest in Item 35. The nature of the interest is that Cr K Milne is related to the applicant. Cr K Milne will manage the Interest by vacating the Chamber and taking no part in the discussion or voting on the matter.

548

**Cr W Polglase
Cr P Youngblutt**

PROPOSED that Development Application DA03/0476.04 for an amendment to Development Consent DA03/0476 for the establishment of an art gallery/coffee shop to include a refreshment room and extend trading hours on Saturdays including the option of live music at Lot 2 DP 575934 No. 17 Bambery Street, Fingal Head be approved and the consent be amended as follows:

1. Delete Condition No. 1 and replace it with Condition No. 1A which reads as follows:

- 1A. The development shall be completed in accordance with the Statement of Environmental Effects and the Site Plan as submitted on 11 July 2013 with the development application, except where varied by these conditions.
2. Delete Condition No. 5.
3. Delete Condition No. 10.
4. Delete Condition No. 22 and replace it with Condition No. 22A which reads as follows:
22A. Hours of operation of the business are restricted to the following hours:
8.30am - 5.00pm Mondays to Thursdays
8.30am - 9.00pm Fridays
8.30am – 10.30pm Saturdays
8.30am - 8.00pm Sundays
In addition the art gallery is permitted to be open until 9.30pm on ten nights of every calendar year.
5. Insert new Condition No. 25 which reads as follows:
25. Section 94 Contributions
Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.
Prior to the occupation/use of the on-site outdoor dining area, all Section 94 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" signed by an authorised officer of Council.
A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.
These charges include indexation provided for in the S94 Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.
A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.
- | | |
|--------------------------------------|----------|
| (a) Tweed Road Contribution Plan: | |
| 12.6 Trips @ \$1176 per Trips | \$14,818 |
| (\$1137 base rate + \$39 indexation) | |
| S94 Plan No. 4 | |
| Sector 6_4 | |
| (b) Shirewide Car Parking | |
| 6 space/s @ \$2983 per space/s | \$17,898 |
| (\$0 base rate + \$2983 indexation) | |
| S94 Plan No. 23 | |
6. Insert new Condition No. 26 which reads as follows:

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

Prior to the occupation/use of the on-site outdoor dining area, all Section 64 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Water DSP4: 0.28 ET @ \$12575 per ET \$3,521

Sewer Kingscliff: 0.455 ET @ \$6042 per ET \$2749.10

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

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

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

[POC0675/PSC0165]

7. Insert new Condition No. 27 which reads as follows:

- 27 A Section 138 application must be submitted to Council for approval within 28 days of the date of the amended consent (September 2013) in relation to all structures within the road reserve, with the exception of the roof structure approved under the S138 approval DWY13/0225.

549

AMENDMENT

Cr B Longland
Cr G Bagnall

RESOLVED that Development Application DA03/0476.04 for an amendment to Development Consent DA03/0476 for the establishment of an art gallery/coffee shop to include a refreshment room and extend trading hours on Saturdays including the option of live music at Lot 2 DP 575934 No. 17 Bambery Street, Fingal Head be approved and the consent be amended as follows:

1. Delete Condition No. 1 and replace it with Condition No. 1A which reads as follows:
 - 1A. The development shall be completed in accordance with the Statement of Environmental Effects and the Site Plan as submitted on 11 July 2013 with the development application, except where varied by these conditions.
2. Delete Condition No. 5.

3. Delete Condition No. 10.
4. Delete Condition No. 22 and replace it with Condition No. 22A which reads as follows:
22A. Hours of operation of the business are restricted to the following hours:
8.30am - 5.00pm Mondays to Thursdays
8.30am - 9.00pm Fridays
8.30am – 10.30pm Saturdays
8.30am - 8.00pm Sundays
In addition the art gallery is permitted to be open until 9.30pm on ten nights of every calendar year.

5. Insert new Condition No. 25 which reads as follows:

25. Section 94 Contributions

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

Prior to the occupation/use of the on-site outdoor dining area, all Section 94 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

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

Shirewide Car Parking

3 space/s @ \$2983 per space/s \$8,949

(\$0 base rate + \$2983 indexation)

S94 Plan No. 23

The Amendment was **Carried** on the casting vote of the Mayor.

FOR VOTE - Cr M Armstrong, Cr G Bagnall, Cr B Longland

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne

The Amendment on becoming the Motion was **Carried** on the casting vote of the Mayor - (Minute No 549 refers)

FOR VOTE - Cr M Armstrong, Cr G Bagnall, Cr B Longland

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne

Cr K Milne has returned from temporary absence at 07:59 PM

36 [PR-CM] Update on Planning Proposal PP12/0001 - No. 420-434 Terranora Road, Terranora

Mr Troy Green, Acting General Manager declared a *Pecuniary* Interest in Item 36. The nature of the interest is that Mr Green resides in the subject area. Mr Green vacated the Chamber during discussion and voting on this item.

550

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that:

1. Council prepares a planning proposal for Lots 2-8 DP 28597 being No. 420-434 Terranora Road, Terranora, and submit the planning proposal for a Gateway determination.
2. The Minister for Planning and Infrastructure be advised that a delegation of the Plan Making functions is not being sought in this instance and accept the role as Relevant Planning Authority for this proposal.
3. Council officers enter into negotiations with the owner of Lots 2-8 DP 28597 No. 420-434 Terranora Road, Terranora, for the preparation of a Planning Agreement pursuant to s93F of the *Environmental Planning and Assessment Act 1979*, which ensures that development of vacant allotments does not occur until such time as critical constraints affecting the site are addressed to the satisfaction of Council, and that ongoing maintenance and management requirements for shared and other infrastructure and services are secured within the planning agreement.
4. Should any one of the critical constraints affecting the site not be resolved to the satisfaction of Council, that the planning proposal not be placed on public exhibition and a further report be prepared for Council's consideration detailing any prevailing issues.
5. Consultation with the landowners of the four adjoining developed properties, Lot 1 DP 28597, Lots 9, 10 and 11 DP 28597 commence regarding their inclusion within a revised planning proposal post receipt of the initial Gateway Determination for Lots 2-8 DP 28597, and a further report be prepared for Council's consideration detailing the specifics of the consultation and recommendations for proceeding with the rezoning of those properties.

551

AMENDMENT

Cr K Milne
Cr G Bagnall

PROPOSED that:

1. Prepares a planning proposal for Lots 2-8 DP 28597 being No. 420-434 Terranora Road, Terranora, and submit the planning proposal for a Gateway determination.
2. The Minister for Planning and Infrastructure be advised that a delegation of the Plan Making functions is not being sought in this instance and accept the role as Relevant Planning Authority for this proposal.
3. Council officers enter into negotiations with the owner of Lots 2-8 DP 28597 No. 420-434 Terranora Road, Terranora, for the preparation of a Planning Agreement pursuant to s93F of the *Environmental Planning and Assessment Act 1979*, which ensures that development of vacant allotments does not occur until such time as critical constraints affecting the site are addressed to the satisfaction of Council, and that ongoing maintenance and management requirements for shared and other infrastructure and services are secured within the planning agreement.
4. Should any one of the critical constraints affecting the site not be resolved to the satisfaction of Council, that the planning proposal not be placed on public exhibition and a further report be prepared for Council's consideration detailing any prevailing issues.
5. Consultation with the landowners of the four adjoining developed properties, Lot 1 DP 28597, Lots 9, 10 and 11 DP 28597 commence regarding their inclusion within a revised planning proposal post receipt of the initial Gateway Determination for Lots 2-8 DP 28597, and a further report be prepared for Council's consideration detailing the specifics of the consultation and recommendations for proceeding with the rezoning of those properties.
6. Council prepares the proposal taking into account the critical and site specific issues identified previously by Council and the Joint Regional Planning Panel, including the number and configuration of lots, retention of some public open space, visual amenity and scenic escarpments impact within the context of the Far North Coast Regional Strategy, Area E Urban Release Development Code and protection of the view line from the Memorial Avenue of pines directly over Terranora Rd (identified and accepted as a future war memorial).

The Amendment was **Lost**

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

The Motion was **Carried** (Minute 550 refers)

FOR VOTE - Unanimous

37 [PR-CM] Planning Proposal PP10/0007 - Mooball Planning Proposal - Lot 2 DP 534493 No. 5867 Tweed Valley Way, Lot B DP 419641 No. 5859 Tweed Valley Way and Lot 7 DP 593200 No. 5861 Tweed Valley Way, Mooball

The Acting General Manager returned from temporary absence.

552

**Cr W Polglase
Cr P Youngblutt**

PROPOSED that Council accepts the proponents' current Land Use Conflict Risk Assessment (LUCRA) Report recommendation of a 50 metre buffer zone between the development site and Lot B DP 41961 and refer the latest Planning Proposal PP10/0007 to the NSW Department of Planning and Infrastructure for a Gateway Determination.

553

AMENDMENT 1

**Cr M Armstrong
Cr K Milne**

PROPOSED that this report be deferred for consideration at the next Council meeting.

Amendment 1 was **Lost**

FOR VOTE - Cr M Armstrong, Cr B Longland

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr K Milne, Cr G Bagnall

554

AMENDMENT 2

**Cr B Longland
Cr K Milne**

RESOLVED that Council in respect of the Planning Proposal PP10/0007, over Lot 2 DP 534493 No 5867 Tweed Valley Way and Lot 7 DP 593200 No 5861 Tweed Valley Way, Mooball:

1. Further defers sending the Planning Proposal for a Gateway Determination; and
2. Writes to the applicant, Jefferson Lane Pty Ltd, requesting that they meet further with owners of Lot B DP 419641 to seek a mutually acceptable buffer treatment between the Lot B DP 419641 site, and the eastern edge of the proposed residential

redevelopment area of the latest PP10/0007 Land Use Conflict Risk Assessment (LUCRA) report; and

3. A further report be submitted to the November Council meeting providing an update on the outcome of the meeting identified in Point 2 and addressing the strategic compliance with the aims of the *Tweed Urban and Employment Land Strategy 2009*.

The Amendment 2 was **Carried**

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

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne

Amendment 2 on becoming the Motion was **Carried** - (Minute No 554 refers)

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

AGAINST VOTE - Cr W Polglase

557

**Cr B Longland
Cr P Youngblutt**

RESOLVED that Standing Orders be resumed.

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

562

**Cr G Bagnall
Cr K Milne**

RESOLVED that Council notes the August 2013 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

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

563

Cr M Armstrong
Cr G Bagnall

RESOLVED that this report be deferred for consideration at the October meeting.

564

AMENDMENT 1

Cr K Milne
Cr G Bagnall

PROPOSED that this report be deferred for consideration at the October meeting to allow the applicant to submit the information identified by Council staff.

Amendment 1 was **Lost**

FOR VOTE - Cr K Milne, Cr G Bagnall

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

565

AMENDMENT 2

Cr C Byrne
Cr B Longland

PROPOSED

1. Development Application DA13/0132 for a change of use (first approved use) to surfboard manufacturing, extension of mezzanine level and associated signage at Lot 19 SP 80033 No. 19/23-25 Ourimbah Road, Tweed Heads be refused for the following reasons:
 - A. The development does not satisfy Section 79C of the Environmental Planning and Assessment Act, particularly Section (b) – “the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality” as the development has not provided sufficient information in regards to the air quality as a result of the proposed development.
 - B. The development does not satisfy Section 79C of the Environmental Planning and Assessment Act, particularly Section (c) – “the suitability of the site for the development” as the development has not demonstrated the sites suitability given the developments potential impact on adjoining tenancies.
 - C. The development is not considered to be in the public interest as the application has failed to adequately address the issues raised in submissions received during the assessment of the application.
 - D. The application has not been supported by sufficient owners consent acknowledging that DA13/0132 also seeks approval for the use of premises and signage not just the mezzanine construction.

and:

2. Council instigate compliance action to have the business cease operating from the subject site and rectify illegal works undertaken to the mezzanine level.

Amendment 2 was **Lost**

FOR VOTE - Cr C Byrne, Cr K Milne, Cr B Longland

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr M Armstrong, Cr G Bagnall

The Motion was **Carried** - (Minute No 563 refers)

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

AGAINST VOTE - Cr C Byrne

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

566

Cr W Polglase
Cr P Youngblutt

PROPOSED that:

1. Council instigates compliance against the applicant for non compliance of the existing use of the building.
2. The applicant be requested to withdraw the Development Application DA13/0247.

567

AMENDMENT

Cr M Armstrong
Cr B Longland

RESOLVED that this report be deferred to allow a Workshop to be scheduled prior to the November meeting.

The Amendment was **Carried**

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

AGAINST VOTE - Cr W Polglase

The Amendment on becoming the Motion was **Carried** - (Minute No 567 refers)

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

27 [PR-CM] Development Application DA13/0212 for a Change of Use of Existing Building to Car Repair Station at Lot 19 DP 23512 No. 45 Minjungbal Drive, Tweed Heads South

This item was dealt with earlier in the meeting at Minute No 547.

28 [PR-CM] Development Application DA13/0233 for a 20 Lot Subdivision (19 Residential Lots and 1 Rural Lot) at Lot 2 DP 231691 No. 44 Station Street, Burringbar

568

Cr M Armstrong
Cr P Youngblutt

RESOLVED that Development Application DA13/0233 for a 20 Lot Subdivision (19 Residential Lots and 1 Rural Lot) at Lot 2 DP 231691 No. 44 Station Street, Burringbar be refused for the following reasons:

1. The proposed development is not considered to be consistent with Clause 4, 5, 8, 11, 15, 39 and 39A of Tweed Local Environmental Plan 2000, due to insufficient information being provided in support of the proposal.
2. The proposed development is not considered to be consistent with Clauses 12, 15, 43 and 81 of the North Coast Regional Environmental Plan, due to insufficient information being provided.
3. The proposed development is not considered to be consistent with State Environmental Planning Policy No. 44 (Koala Habitat Protection), State Environmental Planning Policy No. 55 (Remediation of Land) and State Environmental Planning Policy (Rural Lands) 2008.
4. The proposed development is not considered to be consistent with the provisions of Tweed Development Control Plan 2008 - Section A5 (Subdivision Manual), with particular regard to water and sewer supply, stormwater, road gradients, retaining wall requirements and geotechnical issues.
5. The proposed development is considered to result in an impact on the natural environment and built environment.
6. The subject site is not considered suitable for the proposed development.
7. The proposed development is not considered to be in the public interest.
8. The proposed development has not been granted a Fire Safety Authority from the NSW Rural Fire Service.

The Motion was **Carried**

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

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne

29 [PR-CM] Development Application DA13/0119 for a Partial Demolition, Alterations and Additions of Salt Surf Lifesaving Club at Lot 173 DP 1075495 and Lot 901 DP 1066477 Bells Boulevard, Kingscliff

569

**Cr W Polglase
Cr B Longland**

RESOLVED that:

- A. State Environmental Planning Policy No. 1 objection to Clause 32B(4)(a) of the North Coast Regional Environmental Plan regarding overshadowing of beaches or adjacent open space before 3pm midwinter or 6.30pm midsummer be supported and the concurrence of the Director-General of the Department of Planning and Infrastructure be assumed.
- B. Development Application DA13/0119 for a partial demolition, alterations and additions of Salt Surf Lifesaving Club at Lot 173 DP 1075495 and Lot 901 DP 1066477 Bells Boulevard, Kingscliff be approved subject to the following conditions:

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans as listed in the table below, except where varied by the conditions of this consent.

TITLE	PREPARED BY	DATED
Title Page/Site Plan (DWG DA-01, Issue A)	Scott Carpenter	Undated (submitted to Council 20 March 2013)
Existing Site Aerial Photos (DWG DA-06, Issue A)	Scott Carpenter	Undated (submitted to Council 20 March 2013)
Proposed Site Plan (DWG DA-09, Issue A)	Scott Carpenter	Undated (submitted to Council 20 March 2013)
Proposed Floor Plans, Levels 0 & 1 (DWG DA-10, Issue A)	Scott Carpenter	Undated (submitted to Council 20 March 2013)
Elevations (DWG DA-11, Issue A)	Scott Carpenter	Undated (submitted to Council 20 March 2013)

[GEN0005]

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

[GEN0115]

- 3. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by the General Manager or his delegate prior to any discharge to sewer being commenced. A

trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges.

[GEN0190]

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]

5. Public access to the development (except the ground floor kiosk and public amenities) is not permitted. The north deck and public surf surveillance deck as shown on the plans are not to provide public access into any of the first floor facilities. The deck in both these areas is to be constructed so as to physically prevent public access (except for members) into this part of the facility (by permanent screen or similar).

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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 detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.

[PCC0585]

8. 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]

9. If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.

The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.

[PCC1325]

10. Prior to the construction certificate being issued plans drawn to a scale of 1:50 detailing the following with regards to all food related areas shall be provided to Council for assessment and approval, accompanied by a completed Application for Approval of Food Premise Fit out and the adopted fee in Council's Fees and Charges. Evidence of the plans being approved shall be provided prior to release of the construction certificate:
 1. Floor plan
 2. Layout of kitchens and bar showing all equipment
 3. All internal finish details including floors, wall, ceiling and lighting
 4. Hydraulic design in particular method of disposal of trade waste
 5. Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required.
11. Prior to issue of construction certificate, the applicant shall submit a Coastal Risk Management Report in accordance with the provisions of Development Control Plan B25 - Coastal Hazards to Council's General Manager or delegate for assessment and approval.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

12. 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]

13. 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]

- 14. 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]

- 15. 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 the approved 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]

- 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]

DURING CONSTRUCTION

- 17. 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]

- 18. 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]

- 19. 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]

20. 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]

21. 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]

22. 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]

23. 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]

24. 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 Work Health and Safety Regulation 2011.

[DUR0415]

25. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Work Health and Safety Regulation 2011.

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

[DUR0645]

26. 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]

27. 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]

28. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. Such materials shall either be recycled or disposed of in a manner acceptable to Councils General Manager or his delegate.

[DUR1015]

29. 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]

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

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

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

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

[DUR1495]

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

[DUR1505]

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

[DUR1515]

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

[DUR1545]

34. During the course of the construction and fitout of the kitchen/food premises periodic inspections must be arranged with Councils Environmental Health officer to ensure compliance with all health related conditions of approval and respective legislation.
- [DUR1575]
35. 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]
36. 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]
37. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".
- [DUR2195]
38. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary.
- [DUR2205]
39. 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]
40. 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]
41. 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 Plumbing Code of Australia and AS/NZS 3500.

[DUR2495]

42. 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]

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

- * 45°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]

44. 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]

45. Acid Sulfate Soil is not to be disturbed during construction.
46. No excavation, disturbance or removal of soil is to occur at depths greater than 1m below the existing finished surface level.
47. Demolition and construction waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with the Waste Management Plan of HMC Pty Ltd (HMC Pty Ltd Waste Management Plan Report No. 2012.077 WMP February 2013), except where modified by this consent.
48. The east/west shared user path at the southern end of the Development is to be maintained free of vehicles and equipment to enable safe public access through the site.
49. Public amenities shall be provided for public use in the vicinity of the development for the period of demolition and construction.

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

50. 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]

51. A final occupation certificate must be applied for an obtained within 6 months of any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein).

[POC0355]

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

[POC0615]

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

[POC0625]

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

[POC0635]

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

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 64 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Water DSP6:	1.9 ET @ \$12575 per ET	\$23892.50
South Kingscliff Water Levy:	1.9 ET @ 292 per ET	\$555
Sewer Kingscliff:	2.85 ET @ \$6042 per ET	\$17219.70

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

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

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

[POC0675]

56. 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]

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

[POC1055]

USE

58. 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]

59. Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

[USE0145]

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

[USE0165]

61. 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]

62. 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]

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

[USE0245]

64. All plant and equipment installed or used in or on the premises:
- (a) Must be maintained in a proper and efficient condition, and

(b) Must be operated in a proper and efficient manner.

In this condition, "plant and equipment" includes drainage systems, infrastructure, pollution control equipment and fuel burning equipment.

[USE0315]

65. 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]

66. All activities associated with the use of the facilities, external to the clubhouse, shall not be conducted prior to 7am nor after 8:30pm on any day.

67. All deliveries and servicing relating to the facility shall occur between 8am and 5pm Monday to Saturday.

68. All activities associated with the use of the facilities, internal to the clubhouse, shall not be conducted prior to 6am nor after 10pm on any day. Variation after 10pm until 12pm is permissible on Friday and Saturday evenings for up to 6 occasions in any 12 month period.

69. Use of the development (excluding kiosk and public amenities) is restricted to members only.

70. Waste generated by the operation of the facility shall be managed in accordance with the Waste Management Plan of HMC Pty Ltd (HMC Pty Ltd Waste Management Plan Report No. 2012.077 WMP February 2013), except where modified by this consent.

[USENS01]

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne, Cr G Bagnall

30 [PR-CM] Development Application DA12/0620 for Construction of an Awning over an Existing Outdoor Dining Area at Lot 2 DP 521302 No. 13 Wharf Street, Murwillumbah and Road 5900 Wharf Street, Murwillumbah

Cr G Bagnall declared a Pecuniary Interest in Item 30. The nature of the interest is that Cr G Bagnall operates a business in Murwillumbah similar to that the subject of the report. Cr G Bagnall will manage the Interest by vacating the Chamber and taking no part in the discussion or voting on the matter.

570

**Cr M Armstrong
Cr P Youngblutt**

RESOLVED that Development Application DA12/0620 for construction of an awning over an existing outdoor dining area at Lot 2 DP 521302 No. 13 Wharf Street, Murwillumbah; Road 5900 Wharf Street, Murwillumbah be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 816/12 Sheet 1 of 1 prepared by Trevor White - Building Design and dated 29 November 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. 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 the road reserve or footpath in association with the awning structure. 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.
[GEN0245]
4. The roof awning cladding shall be of light colour and of a material that is transparent or translucent permitting no less than 85% visible light transmission.
5. Side screens or shade screens or blinds of any type (e.g. vertical screens - including partial drop down screens, full length screens and screens that connect with a free standing barrier) are not to be added to the approved structure without prior written approval from the General Manager or delegate.
[GENNS01]
6. The awning structure hereby approved is not to comprise advertising material or signage.
7. The awning hereby approved is to be maintained in a clean and tidy manner.
[GENNS02]
8. The development subject to this approval is limited to a period of three years from the date of this Development Consent. The awning and associated structures are to be removed from the site within three years of the date of this Consent.
[GENNS03]
9. The erection of a building in accordance with a development consent must not be commenced until:
 - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and

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

[PCW0215]

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

[PCW0225]

11. Where prescribed by the provisions of the Environmental Planning and Assessment 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]

12. Prior to the commencement of building work a certificate signed by a registered professional engineer is to be submitted to the Principal Certifying Authority and Council to certify that the existing awning over the footpath is structurally adequate taking into account the likely wind loadings and affects of the proposed awning attachment.

[PCWNS01]

DURING CONSTRUCTION

13. 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]

14. 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]

15. 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]

16. 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]

17. 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]

18. 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]

19. 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]

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

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

[DUR1275]

21. 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]

22. 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]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

23. 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]

24. On completion of work a certificate signed by a practising structural engineer is to be submitted to the Principal Certifying Authority to certify the structural adequacy of the structure.

The Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong
AGAINST VOTE - Cr K Milne, Cr B Longland
ABSENT. DID NOT VOTE - Cr G Bagnall

- 31 [PR-CM] Development Application DA13/0111 for a Detached Dual Occupancy at Lot 1 DP 790119 No. 75 Laura Street, Banora Point**

RETURN TO MEETING

Cr G Bagnall has returned from temporary absence at 9:48 PM

571

Cr W Polglase
Cr P Youngblutt

PROPOSED that Development Application DA13/0111 for a detached dual occupancy at Lot 1 DP 790119 No. 75 Laura Street, Banora Point be supported in principle and request

that the Director Planning and Regulation brings forward standard conditions for approval at the October meeting.

The Motion was **Lost**

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne

AGAINST VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland

572

Cr B Longland

Cr K Milne

RESOLVED that Development Application DA13/0111 for a detached dual occupancy at Lot 1 DP 790119 No. 75 Laura Street, Banora Point be refused for the following reasons:

1. The application is not considered to be consistent with Section 79C 1(a) of the Environmental Planning & Assessment Act 1979 as it does not satisfy the following applicable planning instruments:
 - The Tweed Local Environmental Plan 2000 including: Clause 4 Aims of the Plan; Clause 8 Consent Considerations; Clause 11 The Zones; and Clause 56 Suspension of covenants, agreements and similar instruments;
 - The Draft Tweed Local Environmental Plan 2012 including the Objectives of the RU2 Low Density Residential Zone as detailed within the Land Use Table and Clause 1.9A Suspension of covenants, agreements and instruments [local];
 - The North Coast Regional Environmental Plan including Clause 32B Development Control - Coastal Lands and Clause 43 - Residential Development;
 - Tweed Development Control Plan Section A1 Residential & Tourist Development Code as the bulk and scale of the development results in non compliances with various controls as follows:
 - A predominantly two storey building that would be out of character in terms of building siting, height, overall building forms and materials, with the existing built form character in Laura Street;
 - Non-compliance with the setback provisions on the rear (western) boundary would result in reduced provision for landscaping, useable outdoor space and would result in inappropriate overlooking and invasion of privacy issues, primarily from the elevated decks;
 - The principle outdoor amenity space, being located along the side (southern) boundary, would not be integrated with internal living spaces and would not provide a useable, private and sunny space for future residents.
2. The application is not considered to be consistent with Section 79C 1(b) of the Environmental Planning & Assessment Act 1979 as it would have a negative impact on the surrounding low density residential environment by unreasonably overlooking adjoining properties and invading privacy, primarily from the large elevated decks.
3. The application is not considered to be consistent with Section 79C 1(c) of the Environmental Planning & Assessment Act 1979 as the proposed development has not

responded to the site constraints or surrounding development, as the elevated structure impacts on privacy and would present larger than surrounding built development.

4. The application is not considered to be consistent with Section 79C 1(e) of the Environmental Planning & Assessment Act 1979 as the proposed development is not considered in the public interest, as the original covenant specified only one dwelling per property and the extent of variations proposed under the Tweed Development Control Plan 2008 Section A1 are considered to be excessive.

The Motion was **Carried**

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

32 [PR-CM] Development Application DA13/0239 for the Construction of a Carport (Unit 1) at Lot 1 SP 50344 No. 1/10 Chardonnay Crescent, Tweed Heads South

573

Cr M Armstrong
Cr B Longland

RESOLVED that Development Application DA13/0239 for a carport (unit 1) at Lot 1 SP 50344 No. 1/10 Chardonnay Crescent, Tweed Heads South be approved

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 1 Site Plan and Plan 2 (Floor Plan & Elevations) prepared by Brians Patios and dated May 2013, 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 unauthorised driveway is to be removed prior to the construction of the carport structure.
5. 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 fence lines.
[GEN0300]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. The footings and structural frame are to be designed by a practising Structural Engineer and details shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0945]

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

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

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

- 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]

PRIOR TO COMMENCEMENT OF WORK

8. 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]

9. 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]

DURING CONSTRUCTION

10. 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]

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

[DUR0245]

12. 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]

13. 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]

14. 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]

15. 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]

16. The additional rainwater drains must be connected to the existing rainwater disposal system; to provide satisfactory stormwater disposal in accordance with Australian Standard AS/NZS3500.3.2.

[DUR2255]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

The Motion was **Carried**

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

574

Cr B Longland
Cr P Youngblutt

RESOLVED that the meeting continues beyond 10pm.

The Motion was **Carried**

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

ADJOURNMENT OF MEETING

The meeting was adjourned at 10.00pm.

RESUMPTION OF MEETING

The Meeting resumed at 10.15pm

- 33 [PR-CM] Development Application DA13/0130 for a Rural Industry and Roadside Stall (Staged Development) at Part Lot 5 DP 599760 and Part Lot 5 DP 599760 No. 720 Clothiers Creek Road, Clothiers Creek**

575

Cr P Youngblutt
Cr W Polglase

RESOLVED that:

- A. That Council assumes the Director's Concurrence under the State Environmental Planning Policy No. 1 in respect of Clause 24 of the Tweed Local Environmental Plan 2000 in regards to setbacks to a Council designated road.
- B. That Development Application DA13/0130 for a rural industry and roadside stall (staged development) at Lot 5 DP 599760 No. 720 Clothiers Creek Road, Clothiers Creek be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos:
 - 1478E Amendment 3 Sheet 1 (Location Plan and Stage 1 Site Plan);
 - 1478E Amendment 3 Sheet 2 (Location Plan and Stage 2 Site Plan);
 - 1478E Amendment 3 Sheet 3 (Stage 1 Rural Industry Floor Plan);
 - 1478E Amendment 3 Sheet 4 (Stage 1 Rural Industry Floor Plan);
 - 1478E Amendment 3 Sheet 5 (Stage 1 Rural Industry Elevations);
 - 1478E Amendment 3 Sheet 6 (Stage 2 - Roadside Stall Floor Plan and Elevations)

Prepared by Parameter Designs and dated 29 July 2013, except where varied by the conditions of this consent.

[GEN0005]

2. Advertising structures/signs to be the subject of a separate development application (where statutorily required).

[GEN0065]

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

[GEN0115]

4. 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]

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

[GEN0265]

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

[GEN0300]

7. Bushfire Asset Protection Zones

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities.

- (a) At the commencement of building works and in perpetuity the property around the building shall be managed as follows 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':
 - (i) North for a distance of 10 metres as an asset protection zone;
 - (ii) South for a distance of 10 metres as an asset protection zone;
 - (iii) East for a distance of 10 metres as an asset protection zone;

(iv) West for a distance of 10 metres as an asset protection zone.

(Note: in forested areas a portion of the APZ may be maintained as an outer protection zone as specified in Table A2.7 of 'Planning for Bush Fire Protection 2006'.)

(b) Bushfire asset protection zones are to be maintained around the house site at all times to the satisfaction of the NSW Rural Fire Service.

[GEN0320]

8. Bushfire Water and Utilities

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities.

(a) Water, electricity and gas are to comply with the following requirements of section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

(b) A 10,000 litre water supply shall be provided for fire fighting purposes. A 65mm storz fitting and ball valve or gate valve shall be installed on any tank designated for fire fighting purposes.

(c) Polycarbonate/plastic tanks shall be shielded from the impact of radiant heat and direct flame contact.

(d) A hardened ground surface for truck access is to be supplied up to and within 4 metres of the water source.

(e) A minimum 5hp or 3kW petrol or diesel powered pump shall be made available to the water supply. A 19mm (internal diameter) fire hose and reel shall be connected to the pump.

(f) Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal. Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.

[GEN0325]

9. Bushfire Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation.

(a) Property access roads shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.

[GEN0330]

10. Appropriate erosion and sediment control shall be provided 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".

[GENNS01]

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

[GENNS02]

12. Only primary products produced or processed on the property on which the stall is situated are permitted to be sold from the roadside stall as indicated within Stage 1 and Stage 2 of the development hereby approved.
13. The signage hereby approved shall not include any internal illumination, unless otherwise approved in writing by the General Manager or delegate officer.
14. The stall shall not be adapted or used for any purpose other than a roadside stall without prior consent from Council's General Manager or delegate.

[GENNS03]

15. Within three months of the date of this Development Consent the applicant is required to lodge an application to install/operate an on-site sewage management system under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with an approval. Any approval to install shall be in accordance with the On-site Sewage Management Assessment Report - Rural Industry, HMC2013.065OSSM, prepared by HMC Environmental Consulting PL dated 2 July 2013 and correspondence dated 6 August 2013 or where varied by these conditions.

Any application to install/operate an on-site sewage management system shall include the following:

- (i) A high level waste water alarm,
 - (ii) A flow rate meter to monitor wastewater discharges from the fruit processing preparation area,
 - (iii) Site specific management plan addressing installation and operation of the system in areas where contaminated soil has been identified,
 - (iv) Measures to adequately protect the land application area infrastructure from damage by other farming operations.
16. An Environmental Management Plan shall be compiled to the satisfaction of the General Manager or delegate within three months of the date of this Development Consent. The Plan shall be in accordance with the Preliminary Site Contamination Investigation - Site History, Report No. 2013.065 CL, prepared by HMC Environmental Consulting PL dated June 2013 and correspondence dated 6 August 2013 except where varied by conditions of this consent. The Plan shall detail remedial actions and management of infrastructure to ensure the ongoing suitability of the site for the development in accordance with relevant guidelines as approved under the provisions of the NSW Contaminated Land Management Act 1997.

[GENNS04]

17. Habitat restoration works are to undertaken within the area described as 'Habitat Restoration Area' ('HRA') that is to be an area of minimum six metres wide measured landward and to the north-west from the top bank (the top bank taken as being situated 19 metres from the north-western Lot boundary as shown on Plan No. 1478E Rev. 3 Sheet 2 of 6 (Proposed Development Plan) dated 29 July 2013 prepared by Parameter Designs of Clothiers Creek for a length of approximately 40 metres between and parallel to the 'Existing Gravel Car-parking & Manoeuvring Around Stall' feature (as shown on the aforementioned plan) covering an area of approximately 260m². The following habitat restoration works shall be completed within the nominated HRA within three months of the date of this Development Consent to the satisfaction of the General Manager or his delegate:
- a. Installation of native tube-stock sourced locally and to be planted at a density of one plant per square metre across the entire HRA using a selection of species listed in 'Attachment 1' provided with this approval. Species selected from the attached list and subsequently installed shall comprise of 60% Large Trees/Trees/Small Trees, 20% Shrubs and 20% Grasses to generally reflect the structure and floristic assemblage of a riparian Sub-tropical/Warm Temperate Rainforest vegetation community (TVMS Code 102).
18. The *Syzygium francisii* (giant Water Gum) as shown on Plan No. 1478E Rev. 3 Sheet 2 of 6 (Proposed Development Plan) dated 29 July 2013 prepared by Parameter Designs shall be retained and protected. The specified tree shall be provided a structural barrier (i.e. bollards) to be installed a minimum two metres from the base of the tree. The barrier/s shall be installed within three months of the date of this Development Consent.
19. Within three months of the date of this Development Consent, application on shall be made to and approved by Tweed Shire Council under Section 138 of the Roads Act 1993 for the provision of sealed driveway accesses for the Rural Industry development and the Roadside Stall, in accordance with Council's Development Control Plan Section A2 - *Site Access and Parking Code* and Council's "*Driveway Access to Property - Part 1* " Design Specification June 2004.

The application must include copies of compliance certificates relied upon and details relevant to but not limited to the following:

- Driveway works;
- Stormwater drainage;
- Sediment and erosion control plans;
- Location of all services/conduits.

[GENNS05]

20. A maximum of one delivery vehicle for produce not grown on the site is permitted per week in association with the rural industry. Any additional deliveries in association with the rural industry will require further development consent from Council.

21. Section 94 Contributions

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

All Section 94 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" signed by an authorised officer of Council within six (6) months of the date of this development consent.

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

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

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

(a) Tweed Road Contribution Plan:

0.17 Trips @ \$1871 per Trips \$318

(\$1807 base rate + \$64 indexation)

S94 Plan No. 4

Sector10_4

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

22. 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]

PRIOR TO COMMENCEMENT OF WORK

23. The erection of the Stage 2 Roadside Stall 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]

24. 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]

25. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

[PCW0985]

DURING CONSTRUCTION

26. All proposed works are to be carried out in accordance with the conditions of development consent, approved Section 138 Application, drawings and specifications.

[DUR0005]

27. Construction 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]

28. 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]

29. 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]

30. 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]

31. 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]

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

[DUR1505]

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

[DUR1515]

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

[DUR1545]

35. 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]

36. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the rural industry development or the roadside stall shall be repaired in accordance with Councils Development Design and Construction Specifications.

[DUR1875]

37. During construction, a "satisfactory inspection report" is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR1925]

38. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials.

[DUR2205]

39. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500.

[DUR2495]

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

[POC0625]

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

[POC0635]

43. The food business shall be registered with Tweed Shire Council's Public Health Register for Private Water Suppliers and the appropriate fees paid in accordance with Council's adopted Feeds and Charges Policy.
44. Within one month of the date of this Development Consent being issued copies of 3 plans drawn to a scale of 1:50 detailing the following with regards to all food related areas, in accordance with the Food Act 2003 and AS4674:2004 Design, Construction and Fit-out of Food Premises shall be provided to Council's Environmental Health Officers for assessment and approval:
 - a. Floor plan;
 - b. Layout of kitchens and bar showing all equipment;
 - c. All internal finish details including floors, wall, ceiling and lighting;
 - d. Hydraulic design in particular method of disposal of trade waste;
 - e. Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required;
 - f. Servery areas including counters etc.

Following approval of the internal fitout of the Rural industry and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval within seven days.

[POCNS01]

USE

45. 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]
46. All plant and equipment installed or used in or on the premises:
 - (a) Must be maintained in a proper and efficient condition, and
 - (b) Must be operated in a proper and efficient manner.

In this condition, "plant and equipment" includes drainage systems, infrastructure, pollution control equipment and fuel burning equipment.

[USE0315]
47. 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]
48. 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]

49. Habitat restoration works within the nominated 'Habitat Restoration Area' ('HRA') shall be maintained for a period of six months to be taken immediately following successful installation of all plants. The HRA shall be maintained free of environmental weeds and achieve a 90% survival rate for all planted stock at the completion of the maintenance period. Following this period the 'HRA' shall be retained and maintained at all times to the satisfaction of the General Manager or his delegate.
50. The *Syzygium francisii* (Water Gum) as shown on Plan No. 1478E Amendment 3 Sheet 2 of 6 dated 29 July 2013 prepared by Parameter Designs (reference to this plan does not assume approval for any works, facilities or structures it is to be used only for the purposes of tree identification) shall be retained and protected during construction and operation of the use for the life of the development the subject of this approval.

[USENS01]
51. A safe and secure potable water is to be available, at all times, to the food business for washing food ingredients, cooking, adding to food and drinks, making ice, cleaning, sanitising and personal hygiene.
52. The provision of potable water shall be in accordance with the Water Supply Management Plan prepared in accordance with the NSW Health *Private Water Supply Guidelines 2008* and *Australian Drinking Water Guidelines 2011* and any subsequent amendments to the Guidelines. The Plan shall be made available on-site at all times to any authorised officer of Council upon reasonable request.
53. The food stall shall be utilised for the sale of whole fruit and vegetables only. No food preparation is permitted.

[USENS01]

The Motion was **Carried**

FOR VOTE - Unanimous

34 [PR-CM] Development Application DA13/0121 for a Minor Boundary Adjustment (Stage 1) and Two Lot Subdivision (Stage 2) at Lot 9 DP 616569 No. 1285 Numinbah Road, Chillingham; Lot 8 DP 579554 No. 23 Satinwood Place, Chillingham

576

**Cr K Milne
Cr G Bagnall**

PROPOSED that Development Application DA13/0121 for a minor boundary adjustment (Stage 1) and two lot subdivision (Stage 2) at Lot 9 DP 616569 No. 1285 Numinbah Road, Chillingham; Lot 8 DP 579554 No. 23 Satinwood Place, Chillingham be deferred for a Workshop to be scheduled.

577

AMENDMENT

Cr W Polglase
Cr P Youngblutt

RESOLVED that Development Application DA13/0121 for a minor boundary adjustment (Stage 1) and two lot subdivision (Stage 2) at Lot 9 DP 616569 No. 1285 Numinbah Road, Chillingham; Lot 8 DP 579554 No. 23 Satinwood Place, Chillingham be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos NUMINBAHRD_SUBPLN_ST1 revision 01 and NUMINBAHRD_SUBPLN_ST2 revision 01 prepared by Planit Consulting and dated 07/13 and Plan 01 Issue A sheet 1 and 2 prepared by Cozens Regan Williams Prove Pty Ltd as stamped, except where varied by the conditions of this consent.
[GEN0005]
2. The subdivision is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications.
[GEN0125]
3. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property.
[GEN0135]
4. Any approval to install an on site sewage treatment and disposal system shall comply with the recommended on site sewage treatment and disposal method as detailed in the On-site Sewage Management Design Report (reference: HMC2013.017) prepared by HMC Pty Ltd and dated February 2013 including all recommendations of that report and any addendum to the report or to the satisfaction of Councils General Manager or his delegate.
[GENNS01]
5. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works:-
 - (a) Provision of a standard residential access in accordance with Section A2 - "Site Access and Parking Code" of Council's consolidated Tweed Development Control Plan and Council's Driveway Access to Property - Part 1 " Design Specification June 2004 for proposed Lot 1 in Stage 2.
 - (b) Bitumen or concrete sealing of the access from the existing road carriageway to the property boundary
[GENNS02]
6. No physical access shall be permitted from within adjacent allotment - Lot 6 in DP41458.
[GENNS03]

7. The applicant shall obtain written permission from the owners of Lot 6 in DP 41458 if the construction of the driveway access to Lot 1 in Stage 2 encroaches within the boundaries of this adjacent allotment.

[GENNS04]

8. The proposed subdivision does not approve any new dwellings. All future dwellings are to be applied for under a separate application.

9. The approved subdivision/development shall not result in any clearing of native vegetation without prior approval from the relevant authority. All trees identified as 'Possible Durobby Trees' (*Syzygium moorei*) depicted on the plan being Level Detail and Contour Plan of Part Lot 8 DP579554 & Part Lot 9 DP616569 Numinbah Road Chillingham Sheet 1 of 1 dated 3rd May 2013 prepared by Robert. A. Harries Surveyor shall be protected and retained. The reference to the aforementioned plan relates only to the location of vegetation and does not approve the location of any subdivision boundaries shown on the plan.

10. The boundary adjustment and subdivision does not approve water pumping from Rous River. Separate approval and licensing is required under the Water Management Act 2000.

[GENNS05]

DURING CONSTRUCTION

11. During construction for the relevant stage, a "satisfactory inspection report" is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR1925]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

12. Section 94 Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979, a Subdivision Certificate for Stage 2 shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

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

- (a) Tweed Road Contribution Plan:

6.5 Trips @ \$2318 per Trips \$11601.59*

(\$2239 base rate + \$79 indexation)

S94 Plan No. 4

Sector12b_4

- (b) Open Space (Casual):
 - 1 ET @ \$543 per ET \$418.11*
 - (\$502 base rate + \$41 indexation)
 - S94 Plan No. 5
- (c) Open Space (Structured):
 - 1 ET @ \$622 per ET \$478.94*
 - (\$575 base rate + \$47 indexation)
 - S94 Plan No. 5
- (d) Shirewide Library Facilities:
 - 1 ET @ \$838 per ET \$645.26*
 - (\$792 base rate + \$46 indexation)
 - S94 Plan No. 11
- (e) Bus Shelters:
 - 1 ET @ \$64 per ET \$49.28*
 - (\$60 base rate + \$4 indexation)
 - S94 Plan No. 12
- (f) Eviron Cemetery:
 - 1 ET @ \$123 per ET \$94.71*
 - (\$101 base rate + \$22 indexation)
 - S94 Plan No. 13
- (g) Community Facilities (Tweed Coast - North)
 - 1 ET @ \$1389 per ET \$1069.53*
 - (\$1305.6 base rate + \$83.4 indexation)
 - S94 Plan No. 15
- (h) Extensions to Council Administration Offices
& Technical Support Facilities
 - 1 ET @ \$1860.31 per ET \$1435.26*
 - (\$1759.9 base rate + \$100.41 indexation)
 - S94 Plan No. 18
- (i) Cycleways:
 - 1 ET @ \$473 per ET \$368.94*
 - (\$447 base rate + \$26 indexation)
 - S94 Plan No. 22

- (j) Regional Open Space (Casual)
1 ET @ \$1091 per ET \$850.98*
(\$1031 base rate + \$60 indexation)
S94 Plan No. 26
- (k) Regional Open Space (Structured):
1 ET @ \$3830 per ET \$2987.40*
(\$3619 base rate + \$211 indexation)
S94 Plan No. 26

* Includes adjustments which effect compliance with the Directions from the Minister for Planning in relation to the maximum contribution payable per dwelling dated 13 January 2009 and 19 July 2009.

[POC0395/PSC0175]

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

[PSC0825]

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

- (a) Easements for sewer, future water supply (subject to relevant licensing and approvals) and drainage over ALL public services/infrastructure on private property.

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]

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

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

[PSC0845]

16. Prior to registration of the plan of subdivision for each relevant stage, a Subdivision Certificate for each relevant stage shall be obtained.

The following information must accompany an application:

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

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

[PSC0885]

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

[PSC0945]

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

[PSC1165]

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

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

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

[PSC1175]

20. Prior to the issue of a Subdivision Certificate for each relevant stage, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 138 of the Roads Act 1993.

[PSCNS01]

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

1. The development proposal is to comply with the following subdivision layout plans as submitted in Appendix A of Planit Consulting 'Bushfire Safety Authority' report dated March, 2013:

- Drawing prepared by Planit Consulting referenced NUMINBAHRD_SUBPLN_ST1, titled 'Numinbah Road, Chillingham Subdivision Plan Stage 1' dated 07/2013;
 - Drawing prepared by Planit Consulting referenced NUMINBAHRD_SUBPLN_ST2, titled 'Numinbah Road, Chillingham Subdivision Plan Stage 2' dated 07/2013
2. At the issue of subdivision certificate for Stage 1 and in perpetuity, the land surrounding the existing dwelling on proposed Lot 1 to a distance of 21 metres to the west and 10 metres to the south and east shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones'.
 3. At the issue of subdivision certificate for Stage 1 and in perpetuity, the land surrounding the existing dwelling on proposed Lot 2 to a distance of 21 metres to the north and west or to the property boundary, 27 metres to the east and 10 metres to the south shall be maintained 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'.
 4. Any new water, electricity and gas services are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
 5. Property access roads shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.
 6. The existing dwelling(s) on proposed Lots 1 and 2 are required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

The Amendment was **Carried**

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

AGAINST VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall

The Amendment on becoming the Motion was **Carried** - (Minute No 577 refers)

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

AGAINST VOTE - Cr K Milne, Cr G Bagnall

35 [PR-CM] Development Application DA03/0476.04 for an Amendment to Development Consent DA03/0476 for the Establishment of an Art Gallery/Coffee Shop to include a Refreshment Room and Extend Trading Hours on Saturdays including the Option of Live Music at L

This item was dealt with earlier in the meeting at Minute No 549.

36 [PR-CM] Update on Planning Proposal PP12/0001 - No. 420-434 Terranora Road, Terranora

This item was dealt with earlier in the meeting at Minute No 550.

37 [PR-CM] Planning Proposal PP10/0007 - Mooball Planning Proposal - Lot 2 DP 534493 No. 5867 Tweed Valley Way, Lot B DP 419641 No. 5859 Tweed Valley Way and Lot 7 DP 593200 No. 5861 Tweed Valley Way, Mooball

This item was dealt with earlier in the meeting at Minute No 554.

38 [PR-CM] Draft Tweed Development Control Plan - Section B15 Seabreeze Estate

578

**Cr W Polglase
Cr P Youngblutt**

PROPOSED that Council:

1. Receives and notes the contents of public consultation submissions.
2. Endorses the Tweed Development Control Plan - Section B15 Seabreeze Estate, as amended, and provided as an attachment to this report.
3. Endorses the public notice of the adoption of the Tweed Development Control Plan in accordance with Clause 21(2) of the Environmental Planning and Assessment Regulation 2000, satisfying the provision of Clauses 53E(5) and 53E(6) of the Tweed Local Environmental Plan 2000 – Specific Provisions for Seabreeze Estate – Stage 2.
4. Forwards a copy of the Development Control Plan Section B15 – Seabreeze Estate to the Director-General of the NSW Department of Planning and Infrastructure in accordance with Clause 25AB of the Environmental Planning and Assessment Regulation 2000.

Cr M Armstrong temporarily left the meeting at 10:26 PM.

Cr M Armstrong has returned from temporary absence at 10:27 PM

579

AMENDMENT

**Cr K Milne
Cr G Bagnall**

RESOLVED that this report be deferred to a Workshop which includes the community.

The Amendment was **Carried**

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

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne

The Amendment on becoming the Motion was **Carried** - (Minute No 579 refers)

FOR VOTE - Cr P Youngblutt, Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland

AGAINST VOTE - Cr W Polglase, Cr C Byrne

39 [PR-CM] Draft Design Excellence Policy

580

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that:

1. The Draft Design Excellence Policy be publicly exhibited for a minimum period of 28 days and invites submissions for a period of 42 days;
2. During the course of public exhibition the landowners of key sites, as well as local industry groups, be directly consulted;
3. Following public exhibition of the Draft Design Excellence Policy, a further report be submitted to Council detailing any submissions received and the process for adapting and implementing the Policy.

581

AMENDMENT

**Cr K Milne
Cr G Bagnall**

PROPOSED that this item be deferred for a Workshop to be scheduled.

The Amendment was **Lost**

FOR VOTE - Cr K Milne, Cr G Bagnall

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

The Motion was **Carried** - (Minute No 580 refers)

FOR VOTE - Unanimous

40 [PR-CM] Liquor Licence Application for the Hideaway Motel at Lots 1 and 2 Section 4 DP 29748, Lots 9-12 Section 4 DP 31209 Nos. 26 and 28 Tweed Coast Road and Nos. 19-25 Cypress Crescent, Cabarita Beach

582

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that Council in respect of a Liquor Licence Application for the Hideaway Motel at Lots 1 and 2 Section 4 DP 29748, Lots 9-12 Section 4 DP 31209 Nos. 26 and 28 Tweed Coast Road and Nos. 19-25 Cypress Crescent, Cabarita Beach, determines that Council supports the application for an On-Premises Liquor Licence on the basis that DA12/0170 permits the use of the facilities (restaurant/food and beverage area) to members of the general public and the use of the premises for functions, parties and the like.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne, Cr G Bagnall

41 [PR-CM] Development Application DA09/0611.11 Amendment to Development Consent DA09/0661 for a 181 Lot Subdivision Including 177 Residential Lots and Associated Subdivision Works Including Roads, Infrastructure, Western Cycleway and Landscaping Works (JRPP)

583

**Cr B Longland
Cr G Bagnall**

RESOLVED that:

- A. ATTACHMENTS 1-3 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- B. Development Application DA09/0661.11 for an amendment to Development Consent DA09/0661 for a 181 lot subdivision including 177 residential lots and associated subdivision works including roads, infrastructure, western cycleway and landscaping works (JRPP) at Lot 2 DP 1042119 and Lot 224 DP 1075237 Casuarina Way, Casuarina; Lot 8 DP 1014470 Tweed Coast Road, Casuarina be approved and the conditions be amended as follows:
 - 1. Delete Condition No. 85A and replace it with Condition No. 85B which reads as follows:

85B. Upon completion of all works on the site pertaining to each relevant 'Phase' of bulk earthworks and/or 'Stage' of the subdivision (as nominated hereunder), and prior to the issue of the corresponding Subdivision Certificate, a further dilapidation report is to be prepared and certified by suitably qualified and experienced structural and civil engineers, acceptable to Council, detailing the current general condition including the structural condition of all the adjoining/adjacent buildings/sites, infrastructure and roads. The dilapidation reports shall take into consideration the findings of the original reports and:

- Ascertain if any damage (structural and/or incidental) has occurred to any adjoining and adjacent building/site, infrastructure or roads,
- Recommend a course of action to rectify any such damage that has occurred,
- Ensure any required rectification works have been undertaken and completed to a satisfactory standard,
- Include certification from a practising Structural Engineer that no damage has occurred to adjacent or adjoining dwellings as a result of the development or alternatively, where damage has occurred, satisfactory repairs have been undertaken,
- Be submitted to and approved by the General Manager or his delegate prior to the issue of the relevant Subdivision Certificate

Submission of two further dilapidation reports are required upon completion of:

- Stage 2 and prior to issue of the corresponding Subdivision Certificate; and
- All other works and prior to the issue of the subdivision certificate for the final stage of development of the site.

The Motion was **Carried**

FOR VOTE - Unanimous

CONFIDENTIAL COMMITTEE

625

Cr M Armstrong
Cr K Milne

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

The Motion was **Carried**

FOR VOTE - Unanimous

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

REPORTS THROUGH THE ACTING GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

C1 [PR-CM] Class 4 Appeal Tricare 87-89 Tweed Coast Road, Hastings Point - DA06/0413 Senior Living Development

REASON FOR CONFIDENTIALITY:

Local Government Act

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

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

C 56

That in respect of the Class 4 Appeal Tricare 87-89 Tweed Coast Road, Hastings Point – DA06/0413 Senior Living Development, Council does not actively participate in the Class 4 Appeal but puts on a submitting appearance only.

The Motion was **Carried**

FOR VOTE - Unanimous

27

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