



TWEED
SHIRE COUNCIL

Mayor: Cr Warren Polglase

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

Minutes

Planning and Regulation Reports

Ordinary Council Meeting

Tuesday 20 July 2010

held at Murwillumbah Cultural & Civic Centre
commencing at 4.30pm

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.

IN ATTENDANCE

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

Also present were Mr Mike Rayner (General Manager), Mr Troy Green (Director Technology & Corporate Services), Mr Patrick Knight (Director Engineering & Operations), Mr Vince Connell (Director Planning & Regulation), Mr David Oxenham (Director Community & Natural Resources), Mr Richard Adams (Manager Economic Development) until 5.00pm, Mr Neil Baldwin (Manager Corporate Governance/Public Officer) and Mrs Meredith Smith (Minutes Secretary).

445 COUNCIL DECISION:

Cr D Holdom
Cr P Youngblutt

RESOLVED that Standing Orders be suspended to deal with Items 14, 15, of the Agenda.

The Motion was **Carried**

FOR VOTE - Unanimous

14 [PR-CM] Development Application DA05/0223.07 for an Amendment to Development Consent DA05/0223 for a Restaurant at Lot 1 DP 553728, No. 4 Wharf Street, Tweed Heads

446

Cr D Holdom
Cr P Youngblutt

RESOLVED that:

- A. Development Application DA05/0223.07 for an amendment to Development Consent DA05/0223 for a restaurant at Lot 1 DP 553728, No. 4 Wharf Street, Tweed Heads be refused for the following reasons:
1. The proposed modification is not considered to be in accordance with the provisions of Clause 8 and 11 of the Tweed Local Environmental Plan 2000, relating to consent considerations and zone objectives.
 2. The proposed modification is not considered to be in accordance with the provisions of Section 96(1)(a) of the Environmental Planning & Assessment Act 1979, in that it is not substantially the same development as that originally approved under DA05/0223.
 3. The proposed modification is not considered to be in the public interest.
- B. Council re-initiates legal action through Council's Solicitors in relation to:

1. Unauthorised building works;
 2. The premises being used in a different manner from the original consent; and
 3. Seeking orders for the proprietor to lodge a S96 application with regard to the trading hours of the premises, pursuant to Conditions 6 and 7 of the consent.
- C. Council notifies the Office of Liquor, Gaming and Racing in writing that the premises is no longer operating as a restaurant and is therefore no longer complying with the provisions of the existing on-premises licence for the originally approved restaurant.

The Motion was **Carried**

FOR VOTE - Unanimous

15 [PR-CM] Tomewin Road Equestrian Pad Compliance Matter

447

**Cr D Holdom
Cr B Longland**

PROPOSED that:

1. Council advises the owners of the subject site that a review of the completed equestrian pad has revealed a fill height of greater than that previously considered by Council and that accordingly the owners are requested to modify the fill pad to achieve fill heights of a maximum 450mm above pre existing ground level.

Failure to undertake Option 1 as detailed above (within 60 days from the date of notification) will result in council pursuing this matter legally.

2. ATTACHMENT 3 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of level professional privilege.

448

AMENDMENT

**Cr P Youngblutt
Cr J van Lieshout**

RESOLVED that:

1. Council advises the owners of the subject site that a review of the completed equestrian pad has revealed a fill height of greater than that previously

considered by Council and that accordingly the owners are requested to lodge a development application for the current configuration of the fill pad (the DA must be accompanied by a flood impact assessment, including flood modelling, of the development)

Failure to undertake Option 2 as detailed above (within 60 days from the date of notification) will result in council pursuing this matter legally.

2. ATTACHMENT 3 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of level professional privilege.

The Amendment was **Carried**

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

The Amendment on becoming the Motion was **Carried** - (Minute No 448 refers)

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

452

Cr D Holdom
Cr P Youngblutt

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 7 **[PR-CM] Draft Tweed Local Environmental Plans - Update on Negotiations with Department of Planning - Status Up-date Strategy for Moving Forward**

453

Cr D Holdom
Cr P Youngblutt

RESOLVED that:

1. The report on Draft Local Environmental Plan – Update on Negotiations with Department of Planning - Strategy for Moving Forward be received and noted.

2. Council supports Council officers in their pursuit of appropriate and necessary resolution to the issues raised in this report relating to the draft Tweed Local Environmental Plans.

The Motion was **Carried**

FOR VOTE - Unanimous

8 [PR-CM] Planning Reform Work Program

454

**Cr D Holdom
Cr K Skinner**

RESOLVED that:

1. Council endorses the Planning Reforms - Work Program 2010/2013 identified as Tables 1-3 in this report, and
2. Council advertises the fees and charges identified within Table 4 of this report relating to planning proposals in accordance with Section 610F of the Local Government Act, 1993.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

9 [PR-CM] Planning Proposal PP10/0001 - Lot 10 DP 1084319 Boyds Bay Garden World Site

455

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:

1. Planning Proposal PP10/0001 for a change of land-use zone classification from Rural 1(a) to 3(c) Commerce and Trade rezoning be supported in principle on Lot 10 DP 1084319 Parkes Drive, Tweed Heads West and that the proposal be referred to the Department of Planning for a gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979*.
2. The applicant of planning proposal PP10/0001 be advised that the actual rezoning classification of the land, if supported by Council, will be determined

following assessment of any detailed site studies required after receipt of the initial gateway determination to proceed.

The Motion was **Carried**

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

10 [PR-CM] Planning Proposal PP10/0002 - Lot 30 DP 850230 No. 61 Marana Street, Bilambil Heights (Royal Terranora Resort)

456

Cr D Holdom
Cr P Youngblutt

RESOLVED that:

1. Planning Proposal PP10/0002 for Lot 30 DP 850230 No. 61 Marana Street, Bilambil Heights not be referred to the Department of Planning for a gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* based on insufficient capacity within the Kennedy Drive catchment to accommodate urban growth exceeding that which already has potential under existing Local Environmental Plan 2000 zonings west of Cobaki Bridge.
2. The proponent be advised that additional traffic assessment is required and should be submitted as an addendum to the planning proposal that clearly demonstrates the capacity of the catchment. Any addendum information requiring reassessment is to be subject to the draft fees and charges recommended in Planning Reforms Work Program report listed in the Council agenda of 20 July 2010.

The Motion was **Carried**

FOR VOTE - Unanimous

11 [PR-CM] Planning Proposal PP10/0003 - Stage 1 Part Lot 237 DP 1139108 Rous River Way, Murwillumbah (Riva Vue Estate)

457

Cr D Holdom
Cr K Skinner

RESOLVED that:

1. Planning Proposal PP10/0003 for a change of land-use zone classification to enable Lot 237 DP 1139108 to be developed for the purposes of a *low density*

residential estate of similar character to the approved adjoining Riva Vue subdivision be supported in principle and that the proposal be referred to the Department of Planning for a gateway determination under section 56 of the Environmental Planning and Assessment Act 1979.

- 2 The applicant of the planning proposal PP10/0003 is to be advised that the actual rezoning classification of the land, if supported by Council, will be determined following assessment of any detailed site studies required as part of the Stage 2 gateway determination process.

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

12 [PR-CM] Consideration of Pursuit of Costs - Land and Environment Court Matter - Tweed Shire Council ats Those Best Placed Pty Ltd - No. 49 Upper Crystal Creek Road, Crystal Creek

458

Cr D Holdom
Cr P Youngblutt

RESOLVED that:

1. Council, in respect of the Class 4 Land and Environment Court proceedings – Tweed Shire Council ats Those Best Placed Pty Ltd – No. 49 Upper Crystal Creek Road, Crystal Creek, instruct its solicitors HWL Ebsworth to pursue the applicants for the costs incurred by Council in defending this action.
2. ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

The Motion was **Carried**

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

13 [PR-CM] Consideration of Further Modification of Contribution Payment Options for Development Application DA08/1171.01 for an Amendment to Development Consent DA08/1171 for the Addition of a Deck to Existing Cabarita Surf Life Saving Club at Lot 7010 DP

459

Cr K Skinner
Cr J van Lieshout

RESOLVED that in respect of the resolution of Item 11 of the Business Paper of its meeting of 15 June 2010, relating to a Section 96 application for the Development Application DA08/1171.01 for an Amendment to Development Consent DA08/1171 for the Addition of a Deck to Existing Cabarita Surf Life Saving Club, Council determines a preferred position from the following three options in respect of the request made by the Cabarita Surf Club (through a letter to Council dated 6 July 2010) for amended arrangements for payment of Section 64 and Section 94 contributions to Council, Council recommends to modify the Item 11 resolution of 15 June 2010 Council Meeting in the following manner:

1. That:
 - (a) The Cabarita Beach Surf Life Saving Club enter into a loan with Council for \$56,730.76 (being 50% of the current Tweed Roads Contribution Plan, Shirewide Car Parking and Section 64 contributions) interest free. In terms of a suitable guarantee for the loan, Cabarita Beach Surf Life Saving Club shall be responsible for preparing and seeking agreement with Council on a binding legal agreement, and, or mortgage caveat. Subject to satisfactory arrangements being made in relation to the proposed loan arrangement above, Council will make a donation of \$56,730.76 being 50% of the current contributions as detailed in Conditions 3A and 4A of Development Consent for DA08/1171.01;
 - (b) The 10 year period of the above loan be fixed, and that Council will not increase the base contribution payment of \$56,730.76, and the loan will be interest free for the loan period; and
 - (c) Notwithstanding the terms of Condition 3A of Development Consent for DA08/1171.01, which requires payment of required Section 94 payments prior to the issue of a Construction Certificate, that Council agrees that repayments on the loan identified in the above Point 1(a) shall not commence until a period of 18 months after the date that an Occupation Certificate is issued in respect of Development Consent for DA08/1171.01; and
2. Council officers bring back a report identifying the sources of funding to be donated to the Cabarita Beach Surf Life Saving Club.

The Motion was **Carried**

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

AGAINST VOTE - Cr D Holdom, Cr B Longland

- 14 [PR-CM] Development Application DA05/0223.07 for an Amendment to Development Consent DA05/0223 for a Restaurant at Lot 1 DP 553728, No 4 Wharf Street, Tweed Heads

This item was dealt with earlier in the meeting at Minute No 446.

- 15 [PR-CM] Tomewin Road Equestrian Pad Compliance Matter

This item was dealt with earlier in the meeting at Minute No 448.

- 16 [PR-CM] Major Project Application MP06_0153 for a 41 Lot Residential and Tourist Subdivision at Lot 156 DP 628026 Creek Street, Hastings Point

DECLARATION OF INTEREST

Cr P Youngblutt declared an Interest in this item, left the Chamber at 06:10 PM and took no part in the discussion or voting. The nature of the interest is that Cr P Youngblutt has a brother who works for the proponent.

460

**Cr D Holdom
Cr K Skinner**

RESOLVED that Council endorses that the attached draft submission relating to Major Project Application MP06_0153 at Lot 156 DP 628026, Creek Street, Hastings Point be forwarded to the NSW Department of Planning.

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr P Youngblutt

- 17 [PR-CM] Rural Fire District Service Agreement

RETURN TO MEETING

Cr P Youngblutt has returned from temporary absence at 06:11 PM

461

**Cr K Skinner
Cr B Longland**

RESOLVED that Council approves the General Manager on Council's behalf to enter into a new Rural Fire District Service Agreement with the New South Wales Rural Fire Service and affix the Common Seal of Council to the agreement.

The Motion was **Carried**

FOR VOTE - Unanimous

18 [PR-CM] Development Application DA09/0685 for a Two (2) Lot Subdivision at Lot 2 DP 772129 Hogans Road, Bilambil

462

Cr D Holdom

Cr B Longland

PROPOSED that Development Application DA09/0685 for a two (2) lot subdivision at Lot 2 DP 772129, Hogans Road, Bilambil be refused for the following reasons:

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

The Motion was **Lost**

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

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

463

Cr K Skinner

Cr P Youngblutt

RESOLVED that Council determines the application by way of approval in accordance with the following conditions:-

- A. That Development Application DA09/0685 for a two (2) lot subdivision at Lot 2 DP 772129, Hogans Road, Bilambil be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan prepared by Planit Consulting and dated September 2009, 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]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

4. Prior to issue of a subdivision certificate, all works/actions/inspections etc required by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans. [PSC0005]

5. Section 94 Contributions

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

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

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

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

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

| | |
|--|-------------|
| (a) Tweed Road Contribution Plan: 6.5 Trips @ \$2358 per Trips (\$2143 base rate + \$215 indexation) S94 Plan No. 4 Sector12a_4 | \$12851.68* |
| (b) Open Space (Casual): 1 ET @ \$526 per ET (\$502 base rate + \$24 indexation) S94 Plan No. 5 | \$441.84* |
| (c) Open Space (Structured): 1 ET @ \$602 per ET (\$575 base rate + \$27 indexation) S94 Plan No. 5 | \$505.68* |
| (d) Shirewide Library Facilities: 1 ET @ \$792 per ET (\$792 base rate + \$0 indexation) S94 Plan No. 11 | \$665.28* |
| (e) Bus Shelters: 1 ET @ \$60 per ET (\$60 base rate + \$0 indexation) S94 Plan No. 12 | \$50.40* |
| (f) Eviron Cemetery: 1 ET @ \$120 per ET (\$101 base rate + \$19 indexation) S94 Plan No. 13 | \$100.80* |
| (g) Extensions to Council Administration Offices & Technical Support Facilities 1 ET @ \$1759.9 per ET (\$1759.9 base rate + \$0 indexation) S94 Plan No. 18 | \$1478.32* |
| (h) Regional Open Space (Casual) 1 ET @ \$1031 per ET (\$1031 base rate + \$0 indexation) S94 Plan No. 26 | \$866.04* |

- (i) Regional Open Space (Structured):
1 ET @ \$3619 per ET \$3039.96*
(\$3619 base rate + \$0 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.*

[PSC0175]

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

[PSC0825]

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

(a) Easements for sewer, water supply and drainage over **ALL** public services/infrastructure on private property.

(b) Proposed Lot 1 is not to be further subdivided.

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]

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

[PSC0845]

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

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument

and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.

- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.

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

[PSC0885]

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

[PSC0945]

11. 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]

12. 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 a point no less than 45 metres from the front boundary of 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]

13. Prior to the issue of a Subdivision Certificate the applicant is required to lodge an application to alter the onsite sewerage management system servicing the dwelling located at Cavendish Road under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with an approval. The alteration works shall be undertaken in accordance with the recommendations contained within the HMC Compliance and Feasibility Report HMC 2009.077 dated September 2009 or to the satisfaction of the General Manager or Delegate.

[PSCNS01]

14. Prior to the issue of a Subdivision Certificate the applicant is required to lodge an application to operate the two (2) separate onsite sewerage management systems on the property under Section 68 of the Local

Government Act 1993, pay the appropriate fee and be issued with an approval.

[PSCNS02]

15. Details of the existing right of carriageway are to be shown on the plan of subdivision prior to the issue of a Subdivision Certificate.

[PSCNS03]

16. Prior to the issue of a Subdivision Certificate the unauthorised dwelling is to be removed or rendered uninhabitable, or made lawful.

[PSCNS04]

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

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

1. At the issue of a subdivision certificate and in perpetuity, the land surrounding the existing dwelling(s) on proposed Lot 1, to a distance of 10 metres, 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'.
2. At the issue of a subdivision certificate and in perpetuity, the land surrounding the existing dwelling(s) on proposed Lot 2, to a distance of 20 metres, 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 Services document 'Standards for asset protection zones'.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack.

3. 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. Where applicable, this includes any sub floor areas, openable windows, doors, vents, weepholes and eaves.

The Motion was **Carried**

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

19 [PR-CM] Development Application DA10/0066 for a Two (2) Lot Subdivision at Lot 10 DP 1034435, No. 285 Clothiers Creek Road, Nunderi

464

**Cr P Youngblutt
Cr D Holdom**

PROPOSED that Development Application DA10/0066 for a two (2) lot subdivision at Lot 10 DP 1034435, No. 285 Clothiers Creek Road, Nunderi be approved subject to the following conditions: -

GENERAL

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

Plan No 17891D Sheet 1 Revision A Ref. No. M30974, prepared by B&P Surveys Consulting Surveyors and dated 6 May 2010

Plan No 17891D Sheet 2 Revision A Ref. No. M30974, prepared by B & P Surveys Consulting Surveyors and dated 6 May 2010,

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]]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

[[PCC0285]]

5. The proponent shall submit plans and specifications with an application for construction certificate for the following civil works and any associated subsurface overland flow and piped stormwater drainage structures designed in accordance with Councils Development Design and Construction specifications.

RURAL ACCESS

- (a) The existing gravel track providing access to the dwelling site on proposed lot 11 shall be upgraded to a 3.0m wide, 150mm compacted gravel pavement with a two(2) coat bitumen seal from the junction with the existing bitumen driveway to the dwelling site on proposed lot 11.

[[PCC0875]]

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

[[PCC0935]]

7. Prior to the issue of a Construction Certificate for civil works the following detail in accordance with Councils Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

- (a) copies of compliance certificates relied upon
- (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
- earthworks
 - stormwater drainage
 - water supply works
 - Accessway
 - sedimentation and erosion management plans
 - location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure)

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

[[PCC0985]]

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]]

PRIOR TO COMMENCEMENT OF WORK

9. Prior to start of works the PCA is to be provided with a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and be supported by Geotechnical assessment of the founding material.

[[PCW0745]]

DURING CONSTRUCTION

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

[[DUR0005]]

11. 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]]

12. 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]]

13. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".

The earthworks shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to the Principal Certifying Authority upon completion.

[[DUR0795]]

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

[[DUR0815]]

15. 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]]

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

[[DUR0995]]

17. 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]]

18. 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]]

19. 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]]

20. 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]]

21. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, Appendix D. Inspection fees are based on the rates contained in Council's current Fees and Charges:-

Roadworks

- (a) Final inspections - on maintenance
- (b) Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

- (a) Excavation
- (b) Bedding

- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures
- (g) Drainage channels
- (h) Final inspection - on maintenance
- (i) Off maintenance

Council's role is limited to the above mandatory inspections and does NOT include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[[DUR1895]

22. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation/Subdivision Certificate.

[[DUR1955]

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

[[DUR2015]

24. 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]

25. Erosion and sediment control measures shall be placed and maintained to the satisfaction of the General Manager or his delegate.

[[DURNS01]

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

[[POC1025]

27. 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]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

[[PSC0005]

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Water DSP6: 1.2 ET @ \$10709 per ET \$12,850.80

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.

[[PSC0165]

30. Section 94 Contributions

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

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

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

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

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

| | |
|--|-----------|
| (a) Tweed Road Contribution Plan: 6.5 Trips @ \$1601 per Trips (\$1455 base rate + \$146 indexation) S94 Plan No. 4 Sector10_4 | \$10407 |
| (b) Open Space (Casual): 1 ET @ \$526 per ET (\$502 base rate + \$24 indexation) S94 Plan No. 5 | \$526 |
| (c) Open Space (Structured): 1 ET @ \$602 per ET (\$575 base rate + \$27 indexation) S94 Plan No. 5 | \$602 |
| (d) Shirewide Library Facilities: 1 ET @ \$792 per ET (\$792 base rate + \$0 indexation) S94 Plan No. 11 | \$792 |
| (e) Eviron Cemetery: 1 ET @ \$120 per ET (\$101 base rate + \$19 indexation) S94 Plan No. 13 | \$120 |
| (f) Extensions to Council Administration Offices & Technical Support Facilities 1 ET @ \$1759.9 per ET (\$1759.9 base rate + \$0 indexation) S94 Plan No. 18 | \$1759.90 |
| (g) Regional Open Space (Casual) 1 ET @ \$1031 per ET (\$1031 base rate + \$0 indexation) S94 Plan No. 26 | \$1031 |
| (h) Regional Open Space (Structured): 1 ET @ \$3619 per ET (\$3619 base rate + \$0 indexation) S94 Plan No. 26 | \$3619 |

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

[[PSC0725]]

32. All retaining walls in excess of 1.2m are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the subdivision certificate application and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

In addition to the above certification, the following is to be included in the Section 88B Instrument to accompany the final plan of subdivision.

- (a) A restriction to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.3m in vertical height within a zone adjacent to the wall that is equal to the height of the wall.
- (b) Each lot burdened and or benefited by a Type 1 wall as defined in AS4678-2002 Earth Retaining Structures, shall contain a restriction to user advising the landowner of the need to maintain the wall in accordance with that standard.

Tweed Shire Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

[[PSC0785]]

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

[[PSC0825]]

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

[[PSC0845]]

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

The following information must accompany an application:

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

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

[[PSC0885]]

36. Prior to the application for a Subdivision Certificate a Compliance Certificate or Certificates shall be obtained from Council OR an accredited certifier for the following:-

(a) Compliance Certificate - Water Reticulation

Note:

1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual and Councils Development Design and Construction Specifications.
2. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[[PSC0915]

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

[[PSC0945]

38. 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]

39. 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 a point no less than 45 metres from the front boundary of 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]

40. Prior to the issue of the subdivision certificate the applicant shall obtain from Council approval to operate the existing on-site sewage management system servicing the dwelling on proposed lot 12 under Section 68 of the Local Government Act 1993.

[[PSCNS01]

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

1. Landscaping surrounding the existing dwelling is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

465

AMENDMENT

**Cr K Milne
Cr B Longland**

RESOLVED that this item be deferred to allow for a workshop.

The Amendment was **Carried**

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

The Amendment on becoming the Motion was **Carried** - (Minute No 465 refers)

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

20 [PR-CM] Development Application DA08/1056 for a Conversion of an Existing Farm Shed to Rural Workers Dwelling at Lot 1 DP 803636, No. 9 Sanderson Place, Dungay

466

**Cr D Holdom
Cr K Milne**

RESOLVED that:

1. Council instructs its solicitors to suspend acting on the original Council resolution to commence proceedings (for a breach of the Environmental Planning and Assessment Act 1979) dated 18 May 2010 and defend the Class 1 application (Case No. 10535/10 filed by J & P Griffis in the Land and Environment Court on 6 July 2010) and on completion of the Class 1 proceedings proceed with action required by Council's resolution dated 18 May 2010 if necessary.
2. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

The Motion was **Carried**

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

- 21 **[PR-CM] Refund of Application Fees Associated with Development Application DA09/0482 and Construction Certificate CC09/0416 for Alterations to Existing Tennis Shed Providing a Usable Building for the General Community During Community Activities at Lot 2**

467

**Cr B Longland
Cr K Milne**

RESOLVED that Council donates a total of \$345.40 to the applicant being the fees associated with DA09/0482 and CC09/0416.

The Motion was **Carried**

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

ADJOURNMENT OF MEETING

Adjournment for dinner at 6.33 pm.

RESUMPTION OF MEETING

The Meeting resumed at 7.31pm

- 22 **[PR-CM] Development Application DA09/0106 for a Roadside Stall at Lot 10 DP 252918, No. 852 Tyalgum Road, Eungella**

468

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:

1. State Environmental Planning Policy No. 1 objection to Clause 24 of Tweed Local Environmental Plan 2000 regarding a 30m setback for development from designated roads be supported and the concurrence of the Director-General of the Department of Planning be assumed.

2. Development Application DA09/0106 for a roadside stall at Lot 10 DP 252918, No. 852 Tyalgum Road Eungella be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Site Plan and Location Plan submitted to Council 9 March 2009 and car parking plan submitted to Council 21 June 2010, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

3. 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]

4. Only primary products produced on the property on which the stall is situated are permitted to be sold from the roadside stall. All produce offered for sale from the roadside stall is to be whole i.e.: no sale of cut produce is permitted without prior approval from Council's General Manager or delegate.

5. The total area of the roadside stall shall not exceed twenty (20) square metres.

[GENNS01]

6. The approved advertising sign shall have an area of not greater than 1m x 1.2m and shall be displayed wholly within the boundaries of the subject site at all times. The sign shall be removed at the close of business each day.

7. The stall shall not be adapted or used for residential accommodation or for any purpose other than a roadside stall without prior consent from Council's General Manager or delegate.

[GENNS02]

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]

10. 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]

DURING CONSTRUCTION

11. The provision of a minimum of two (2) 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. Car parking spaces are to be constructed of compacted screened road base and clearly marked as 'customer parking' at all times.

[DUR0085]

12. 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]

13. 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]

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

[DUR0245]

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. 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]

17. Provision to be made for a flood free storage area for equipment susceptible to water damage.

[DUR1395]

18. All display shelves or benches must be of a durable, smooth, impervious material capable of being easily cleaned.

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

19. 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]

20. 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 1300 650 124.

[POCNS01]

USE

21. 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]

22. Hours of operation of the business are restricted to the following hours:-
7.00am to 6.00pm Monday to Sunday

[USE0185]

23. The use being restricted to the floor area designated on the approved plan. No retail activities shall occur outside the nominated stall area (20m²) as identified on the approved plan.

[USE0415]

24. No intensification of use beyond the provision of the sale of whole produce (no cutting allowed) sold on the same property of the farm is permitted without the approval of the General Manager or his delegate.

[USE0855]

25. The premises shall be maintained in a clean and tidy manner.

[USE0965]

26. Either a suitable management plan for the water supply of the rainwater tank at the farm stall is put in place and regular testing shows that the water is free of contamination OR a warning sign is placed at the water outlet of the rainwater tank of the farm stall with the wording "*WARNING - The drinking water here is not monitored or treated. Water quality may not meet Health Guidelines*" or "*Warning - water not suitable for drinking*".

[USENS01]

27. All practicable measures shall be taken to protect displayed foods from the likelihood of contamination including pests, dust and dirt.

[USENS02]

28. Any premises used for the storage, preparation or sale of food are to comply with the provisions of the Food Act 2003.

[USENS03]

The Motion was **Carried**

FOR VOTE - Unanimous

23 [PR-CM] Public Notification of Amendments to Tweed DCP Notification Requirements for DAs Affecting Caravan Parks and Manufactured Home Estates

469

**Cr P Youngblutt
Cr D Holdom**

RESOLVED that:

1. Council adopts the draft amendments to Section A11 of Tweed Development Control Plan – Public Notification of Development Proposals Code as identified in this report, and in accordance with section 21 of the *Environmental Planning Assessment Regulation 2000*, and to give public notice of the resolution to adopt the Plan in its newspaper, the Tweed Link, within 28 days of this resolution.
2. The Draft Plan be further amended to include a savings and transitional provision to the effect that development applications lodged but not determined are to be assessed as if the amendments had not been made in relation to public notification requirements.

The Motion was **Carried**

FOR VOTE - Unanimous

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

470

**Cr K Skinner
Cr D Holdom**

RESOLVED that Council notes the June 2010 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

