



TWEED
SHIRE COUNCIL

Mayor: Cr B Longland (Mayor)

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

Minutes

Planning and Regulation Reports

Ordinary Council Meeting

Thursday 20 June 2013

held at Murwillumbah Cultural and Civic Centre
commencing at 5.05pm

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 5.05pm.

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 Michael Chorlton (Acting Director Technology and Corporate Services), Mr Patrick Knight (Director Engineering and Operations), Mr Vince Connell (Director Planning and Regulation), Mr Anthony Burnham (Acting Director Community and Natural Resources), Mr Neil Baldwin (Manager Corporate Governance/Public Officer) and Mrs Meredith Smith (Minutes Secretary).

DISCLOSURE OF INTEREST

Cr C Byrne wishes to declare a non pecuniary, non significant Interest in Item 36. The nature of the interest is that a neighbour of Cr Byrne's has an involvement in the development. Cr C Byrne will manage the Interest by vacating the Chamber and taking no part in the discussion or voting on the matter.

Cr P Youngblutt wishes to declare a non pecuniary non significant Interest in Item 27. The nature of the interest is that Cr Youngblutt's brother has been employed by the subject developer. Cr Youngblutt will remain in the Chamber for discussion and voting on this matter.

Cr G Bagnall wishes to declare a significant, non-pecuniary Interest in Item 33. The nature of the interest is that Cr G Bagnall is the proprietor of a food business in Murwillumbah. Cr G Bagnall will manage the Interest by vacating the Chamber and taking no part in the discussion or voting on the matter.

Cr G Bagnall wishes to declare a significant, non-pecuniary Interest in Confidential Item 1. The nature of the interest is that Cr G Bagnall has a friendship with the owner of an adjacent property. Cr G Bagnall will manage the Interest by vacating the Chamber and taking no part in the discussion or voting on the matter.

RESOLVED that Standing Orders be suspended to deal with Item 27 of the Agenda.

The Motion was **Carried**

FOR VOTE - Unanimous

27 [PR-CM] Section 82 Appeal - Palm Lake Resort, Banora Point

Cr P Youngblutt declared a Non-Significant, Non-Pecuniary Interest in Item 27. The nature of the interest is that Cr Youngblutt's brother has been employed by the development. Cr Youngblutt remained in the Chamber for discussion and voting on this matter.

1

Cr M Armstrong
Cr C Byrne

RESOLVED that:

1. Council supports the Section 82 appeal against Clause 135(1) of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 and allows erection of relocatable homes on site within the caravan park, and
2. The appeal be forwarded to the Department of Planning and Infrastructure for concurrence of the Director-General, in accordance with Section 82(3) of the Local Government Act 1993.

2

AMENDMENT

Cr K Milne
Cr G Bagnall

PROPOSED that this item be deferred to allow 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 361 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

ADJOURNMENT OF MEETING

Adjournment for dinner at 6:44pm.

The Meeting resumed at 7:30pm to further consider Item 10 of the Agenda which was resolved at Minute No 357.

3

Cr M Armstrong
Cr G Bagnall

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

4

**Cr G Bagnall
Cr M Armstrong**

RESOLVED that Council notes that for May 2013 there are no Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

27 [PR-CM] Section 82 Appeal - Palm Lake Resort, Banora Point

This item was dealt with earlier in the Meeting at Minute No 367.

28 [PR-CM] Council Submission on "A New Planning System for NSW" White Paper and Two Exposure Bills

5

**Cr G Bagnall
Cr K Milne**

RESOLVED that Council endorses this report and that it forms the basis for a submission to the NSW Department of Planning and Infrastructure on the White Paper on planning reform in NSW, 'A New Planning System for NSW', and the two Exposure Bills, the Planning Bill 2013 and the Planning Administration Bill 2013.

The Motion was **Carried**

FOR VOTE - Unanimous

29 [PR-CM] State Emergency Service - Memorandum of Understanding

6

**Cr G Bagnall
Cr K Milne**

RESOLVED that:

1. The draft State Emergency Service/Tweed Shire Council Memorandum of Understanding April 2013 be adopted, executed and forwarded to the NSW State Emergency Service in response to the Strategic Disaster Readiness Package proposed arrangements.
2. The income from the sale of plant assets in accordance with the State Emergency Service/Tweed Shire Council Memorandum of Understanding April 2013 be allocated to part fund alterations/additions or relocation of the Tweed Heads State Emergency Service Unit facility dependant on the outcome of ongoing negotiations with NSW Crown Lands Division.

The Motion was **Carried**

FOR VOTE - Unanimous

30 [PR-CM] Tweed Development Control Plan - Section B15 - Seabreeze Estate, Pottsville

7

**Cr G Bagnall
Cr K Milne**

RESOLVED that:

1. The report on Tweed Development Control Plan - Section B15 - Seabreeze Estate, Pottsville be received and noted.
2. Council requires the proponent pay Development Control Plan Amendment fees detailed within Council's fees and charges.
3. Upon receipt of these fees, publicly exhibit the amended Tweed Development Control Plan, Section B15 – Seabreeze Estate, Pottsville, for a minimum period of 30 days, in accordance with section 74E of the Environmental Planning Assessment Act 1979 be endorsed.
4. Following public exhibition of Draft Tweed Development Control Plan, Section B15 – Seabreeze Estate, Pottsville, a further report is submitted to Council.

The Motion was **Carried**

FOR VOTE - Unanimous

31 [PR-CM] Development Application DA05/0004.03 for an Amendment to Development Consent DA05/0004 for Filling of Land at Part Lot 3 DP 828298 Cudgen Road, Cudgen; Lot 26C and 26D DP 10715 Quigan Street, Kingscliff

8

Cr G Bagnall

Cr K Milne

RESOLVED that Development Application DA05/0004.03 for an amendment to Development Consent DA05/0004 for filling of land at Part Lot 3 DP 828298 Cudgen Road, Cudgen; Lot 26C and 26D DP 10715 Quigan Street, Kingscliff; Lots 11-14 DP 87175 and Lots 2-9 DP 781714 Turnock Street, Kingscliff be approved and Development Consent DA05/0004 be amended as detailed within this report so that the consent now reads as follows:

CONDITIONS DA05/0004

GENERAL

1. DELETED

1.1 The development shall be completed in accordance with the Amended Statement of Environmental Effects (November 2007) except where varied by the approved S96AA Applications (DA05/0004.01, DA05/0004.02 and DA05/0004.03) and the approved plans as follows:

- (a) Approximate Haul Road as approved per DA05/0004.03 – Project Number 1177 Plan No P030 Issue K prepared by Knobel Consulting Pty Ltd and dated 3/08/2012,
- (b) Haul Route, Conveyor Route Section and Stockpile Plan as approved by the original DA05/0004 – Project Number 1177 Plan No P031 Issue E prepared by Knobel Consulting Pty Ltd and dated 2/4/08,
- (c) Construction Filling Plan And Sediment Control as approved by DA05/0004.03 - Project Number 1177 Plan No P032 Issue K prepared by Knobel Consulting Pty Ltd and dated 3/08/2012,
- (d) Boxed In Conveyor System as approved by the original DA05/0004 - Project Number 1177 Plan No P042 Issue B prepared by Knobel Consulting Pty Ltd and dated 28/03/2008,
- (e) Schematic Stormwater Drainage Layout for possible future development North & South of Turnock Street as approved by DA05/0004.03 - Project Number 1177 Plan No P153 Issue H prepared by Knobel Consulting Pty Ltd and dated 03/08/2012,
- (f) Schematic Stormwater Drainage Layout for possible future development South & West of Elrond Drive as approved by DA05/0004.03 - Project Number 1177 Plan No P155 Issue D prepared by Knobel Consulting Pty Ltd and dated 03/08/2012,

- (g) Details of Schematic Stormwater Drainage Layout for Possible Future Development South of Turnock Street as approved by DA05/0004.03 - Project Number 1177 Plan No P156 Issue C prepared by Knobel Consulting Pty Ltd and dated 03/08/2012,
- (h) Earthworks and Drainage Layout Plan South and West of Elrond Drive as approved by DA05/0004.03 - Project Number 1177 Plan No P160 Issue C prepared by Knobel Consulting Pty Ltd and dated 06/08/2012,
- (i) Earthworks and Drainage Layout Plan North and of Turnock Street as approved by DA05/0004.03 - Project Number 1177 Plan No P162 Issue D prepared by Knobel Consulting Pty Ltd and dated 06/08/2012,
- (j) Minor Engineering Works to Enhance new Wallum Froglet Habitat Area as approved by DA05/0004.03 - Project Number 1177 Plan No P166 Issue D prepared by Knobel Consulting Pty Ltd and dated 12/12/2012,
- (k) Dropboard Weir and Temporary Levee Detail as approved by DA05/0004.03 - Project Number 1177 Plan No P168 Issue A prepared by Knobel Consulting Pty Ltd and dated 12/12/2012,

except where varied by the conditions of this consent:

Please note: the minor engineering works referenced in plans P166 and P168 are approved by DA05/0004.03 and do not necessitate an application for a Construction Certificate to enable the works shown on those plans to be undertaken.

[GEN0005]

1.2 The Stage 1 Rehabilitation Works within the alternative Wallum Froglet Habitat Area are to be carried out in accordance with the Threatened Species Management Plan for Wallum Froglet Habitat in Kingscliff prepared by Michael Mahoney, Anne Clements and Associates and Stephen N Webb and Associates dated April 2013.

1.3 Within 60 days of commencing of work for the Stage 1 Rehabilitation Works , a restriction on user burdening that part of Lot 26D DP10715 that is retained for the benefit of the Wallum Froglet (the alternative Wallum Froglet Habitat Area) shall be registered in favour of Tweed Shire Council. The instrument shall be in or to the effect of the fourth Restrictive Covenant annexed to these conditions and will affect the area of land referred to in the annexed fourth Restrictive Covenant.

1A. DELETED

1.4 Within 2 years of the date of commencement of DA05/0004, a restriction on user burdening lots 1, 2 and 3 DP 781714 for the land shown on the plan marked "Littoral Rainforest vegetation" as "covenant area" shall be registered in favour of Tweed Shire Council. The restriction shall prevent the removal of littoral rainforest vegetation from that land. The instrument shall be in or to the effect of the third Restrictive Covenant annexed to these conditions and will affect the area of land referred to in that Restrictive covenant.

[GENNS01]

1B. DELETED

- 1.5 Within 2 years of the date of commencement of DA05/0004 a restriction on user and public positive covenant burdening part of Lot 13 DP 871753 for the land shown on the Plan marked "Level Survey of Part of Land adjacent to Turnock Street, dated 7 April 2008 shall be registered in favour of Tweed Shire Council. The instrument shall be in or to the effect of the first Restrictive Covenant annexed to these conditions and will affect the area of land referred to in that Restrictive covenant.

[GENNS01]

1C. DELETED

- 1.6 Within 2 years of the date of commencement of DA05/0004 a restriction on user burdening those parts of lot 11 and Lot 12 in DP871753 that are retained for the benefit of the Wallum Froglet (land to the south of Turnock Street) shall be registered in favour of Tweed Shire Council. The instrument shall be in or to the effect of the second Restrictive Covenant annexed to these conditions and will affect the area of land referred to in the annexed second Restrictive Covenant.

[GENNS01]

1CA. DELETED

1D. DELETED

- 1.7 Within 2 years of the date of commencement of DA05/0004 the applicant shall submit to the Council a management plan for the area which is the subject of the first restrictive covenant. The management plan shall contain provisions with respect to:

- a. habitat description: baseline survey of current condition and extent of habitat;
- b. MRS survey: baseline survey of snail population;
- c. review and assessment of threatening processes(including weeds, predators, storm water and wetting up);
- d. initial habitat protection and restoration works (weeding and fencing);
- e. monitoring: habitat monitoring by photos and annual survey of fixed grid sample points (annual for five years), snail monitoring by day and night survey of fixed sample points (annual for five years), and
- f. reporting: preparation by an appropriately qualified, independent expert of annual monitoring report and recommendations for management action which shall be submitted to Council. Should management actions be recommended in the report the Applicant will take reasonable steps to address the recommended management actions.

The management plan, with the goal of ensuring that the local population of the Mitchell Rainforest Snail is not likely to be placed at risk of extinction, shall be approved by Council within 2 years of commencement of DA05/0004. Once approved the management plan shall be complied with at all times.

After 5 years of monitoring a revised plan shall be submitted to Council for approval which incorporates any necessary and feasible measures for continuing management of the land. Once approved the revised management plan shall be complied with at all times unless varied with the consent of Council.

[GEN0005]

1E. DELETED

1.8 Within 2 years of the date of commencement of DA05/0004 the applicant shall submit to the Council a management plan for the Wallum Froglet Habitat area on Lots 11 and 12 in DP 871753 area which is the subject of the second restrictive covenants. The management plan shall contain provisions with respect to:

- a. habitat description: baseline survey of current condition and extent of habitat;
- b. Wallum Froglet Survey: baseline survey of Froglet population;
- c. review and assessment of threatening processes (including weeds, predators, stormwater, physicochemical and hydrological conditions).
- d. initial habitat protection and restoration works (e.g., if considered appropriate by the expert preparing the management plan, weeding, drainage or fencing);
- e. monitoring: habitat monitoring by photos and annual survey of fixed grid sample points (annual for five years), monitoring by day and night survey of fixed sample points (annual for five years) under suitable weather conditions and during breeding periods. Appropriate methodology, weather conditions and season for monitoring will be described in the management plan, and
- f. reporting: preparation by an appropriately qualified, independent expert of annual monitoring report and recommendations for management action which shall be submitted to Council. Should management actions be recommended in the report the Applicant will take reasonable steps to address the recommended management actions.

The management plan, with the goal of maintaining or improving existing Wallum Froglet habitat, shall be approved by Council within 2 years of commencement of DA05/0004. Once approved the management plan shall be complied with at all times. After approval, the management plan may be varied with the consent of Council.

[GENNS01]

1F. DELETED

1.9 Within 2 years of the date of commencement of DA05/0004 the applicant shall submit to the Council a management plan for the littoral rainforest area within Lots 1, 2 and 3 of DP 781714 which is the subject of the third restrictive covenant. The management plan shall contain provisions in respect of the area coloured green in B&P Surveys Plan 16814 B Rev C as follows:

- a. habitat description: baseline survey of current condition and extent of habitat;
- b. review and assessment of threatening processes(including weeds, and edge effects);
- c. initial habitat protection and restoration works (removal of exotic trees and shrubs and weeding);
- d. monitoring: habitat monitoring by photos and annual survey of fixed grid sample points (annual for five years), and
- e. reporting: preparation by an appropriately qualified, independent expert of annual monitoring report and recommendations for management action which shall be submitted to Council. Should management actions be recommended in the report the Applicant will take reasonable steps to address the recommended management actions.

The management plan shall have provisions to ensure that the balance of the covenant area is not managed or used in a manner which would interfere with the ecological integrity of the littoral rainforest vegetation community in the area coloured green in B&P Surveys Plan 16814 B Rev C.

The management plan, with the goal of ensuring that the ecological integrity of the littoral rainforest vegetation community is maintained or improved over time and furthermore is not likely to be placed at risk of local extinction, shall be approved by Council within 2 years of the date of commencement of DA05/0004. Once approved the management plan shall be complied with at all times.

After 5 years of monitoring a revised plan shall be submitted to Council for approval which incorporates any necessary and feasible measures for continuing management of the land with. Once approved the revised management plan shall be complied with at all times unless varied with the consent of Council.

[GENNS01]

2. (a) Condition 2 of the general conditions of development consent D96/518 shall prior to commencement of filling be modified in accordance with the Environmental Planning & Assessment Act, 1979 to include the subject filling sites as additional land to which the sand can be delivered.
- (b) The approved Environmental Management Plan in relation to D96/0518 is to be modified to the extent, if any, necessary to satisfy the conditions of this consent in relation to the quality of the fill material.

3. DELETED

- 3.1 All works shall comply with the approved Environmental Management Plan (HMC 2012.123EMP (HMC Environmental P/L, December 2012). A copy of the plan complete with Key Person and Contacts shall be provided to Tweed Shire Council prior to commencement of works.

[GEN0005]

4. DELETED

- 4.1 All works shall comply with the approved Acid Sulfate Soil Management Plan & Groundwater Management Plan HMC 2012.123ASSMP (HMC Environmental P/L, December 2012).

[GEN0005]

5. DELETED

6. The use of crushing plant machinery, mechanical screening or mechanical blending of materials is subject to separate development application.

[GEN0045]

7. The filling and associated works are to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils adopted Development Design and Construction Specifications except as otherwise provided in this consent.

[GEN0125]

8. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Council be 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.

[GEN0135]

9. DELETED

- 9.1 Prior to commencement of filling work, a Section 68 Certificate, Section 138 and a construction certificate and or engineering plans (as statutorily required) shall be submitted to Council for approval to enable commencement of the filling, drainage and general engineering works as proposed by this consent. This condition is not relevant to the minor engineering works proposed in the new Wallum Froglet Habitat Area which have been approved as part of DA05/0004.03.

[GEN0185]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE AND OR ENGINEERING PLANS AS STATUTORILY REQUIRED

- 10.1 Prior to Issue of a Construction Certificate for the filling works the applicant is to lodge a revised haulage route to minimise tree loss. Such plan is to be consistent with that route defined by Council's Dr. Mark Kingston, the applicants Dr Andrew Smith and the applicants Mr Greg Elks, on 31 March 2008 and such that the alignment is subject to trucks being able to turn on reasonable curves. Only the trees marked on site (with tape) are trees that are to be removed.

In addition the applicant is to lodge details for the rehabilitation of the temporary haul route. This should include details pertaining to the methods for removal, storage and reinstatement of top soil, disposal of temporary road base material, re-establishment of vegetation and minimising the impacts on the alternative Wallum Froglet Habitat Area as included in the approved "Wallum Froglet Habitat Management Plan, Kingscliff" prepared by Michael Mahoney, Anne Clements and Associates and Stephen N Webb and Associates dated April 2013. This detail shall be approved by Council prior to the issue of a Construction Certificate for filling works.

[PCCNS01]

- 10.2 A COMMUNITY LIAISON OFFICER AND COMMUNITY LIAISON CONTACT PHONE NUMBER SHALL BE AVAILABLE ON A 24 HOUR BASIS DURING CONSTRUCTION WORKS. DETAILS OF THE CONTACT PERSON AND TELEPHONE NUMBER SHALL BE CLEARLY DISPLAYED AT THE SITE ENTRY. DETAILS OF THE CONTACT PERSON AND TELEPHONE NUMBER SHALL BE LOCALLY ADVERTISED A MINIMUM OF FOURTEEN DAYS (14) PRIOR TO THE COMMENCEMENT OF FILLING WORKS AND LOCAL AFFECTED RESIDENTS NOTIFIED BY MEANS OF AN INDIVIDUAL LETTER DROP TO EACH HOUSEHOLD.

A SIGN IS TO BE ERECTED AT THE ENTRY OF THE SITE TO CLEARLY ADVISE THE COMMUNITY LIAISON OFFICERS DETAILS AND CONTACT NUMBER. THESE DETAILS ARE TO BE DOCUMENTED IN THE CONSTRUCTION MANAGEMENT PLAN.

[PCCNS01]

- 10.3 A construction management plan is to be provided for the filling and earthworks. These details are to be submitted with the application for a Construction Certificate and or Engineering Plans as statutorily required for the filling and earthworks, identifying how the site and filling works are to be programmed and managed.

The construction management plan shall address, not be limited to, the following matters where relevant:

- Sequencing of filling/earthworks
- Contact details of site manager & community liaison officer
- Traffic and pedestrian management

- Dust Management
- Noise and vibration management
- Construction waste management
- Erosion and sediment control; and
- Flora and fauna management.

[PCCNS01]

10. DELETED

10.4 Section 94 Contributions

Heavy Haulage Component

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

Charges are fixed for a period of 12 months from the date of the original 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.

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 6 prior to the issue of a construction certificate. The contribution shall be based on the following formula:

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

where:

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

and:

- | | |
|---------|--|
| Prod. | projected demand for extractive material to be hauled to the site over life of project in tonnes |
| Dist. | average haulage distance of product on Shire roads
(trip one way) |
| \\$Unit | the unit cost attributed to maintaining a road as set out in Section 7.2 (currently 5.4c per tonne per kilometre) |
| Admin. | Administration component - 5% - see Section 6.6 |
| Cont | $= \text{Cont (sand)} + \text{Cont (Gravel)}$
$= (580,000 * 1.44 * 5.4 * 0.4 * 1.05) + (10800 * 2.4 * 5.4 * 0.4 * 1.05)$
$= 1894234 + 58786 \text{ cents}$
$= \underline{\underline{\text{\$19,500}}}$ |

West Kingscliff - Drainage:

17.3844ha @ \$56,641 \$984,669.80**

S94 Plan No. 7

***Less the value of works in kind as defined below*

In accordance with the Section 94 Contributions Plan No 7 (CP7) the applicant's construction of the works referred to in condition 35(a) to (g) and the grant of the easement referred to in condition 35(h) are "works in kind" that will reduce the amount payable in accordance with CP7. The value of the works for the purpose of calculating the value of "works in kind" will be calculated in accordance with CP7 - Schedule 1 - Contribution Rates, b) Drainage. The value of the easement for the purpose of calculating the value of "works in kind" shall be 75% of the value of land "C" in CP7 - Schedule 1 - Contribution Rates, b) Drainage.

The net (\$984,669.80 less the value of works in kind) CP7 contribution, is to be paid at the earlier of 12 months from the date of the s.68 approval for drainage works required by condition 35 or at the completion of construction of the drainage works referred to in this condition.

If the value of "works in kind" exceed the contribution amount, then this amount shall be a CP7 credit towards future development by the applicant in the Kingscliff Drainage Catchment."

[PCC0225]

11. DELETED

11.1 Prior to commencement of filling work a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000).

This bond will be drawn on by Council to undertake any rectification work directed but not completed or progressing to the satisfaction of the Tweed Shire Council's General Manager or delegate, within seventy two (72) hours from the date of serving any notice. The bond is to be released upon completion of all work, to the satisfaction of Tweed Shire Council's General Manager or delegate.

[PCC0275]

12. DELETED

12.1 Prior to commencement of filling work (or other work which may generate the need for a long service levy payment) a 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) must be paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

13. DELETED

13.1 All imported fill material shall be from the approved sand extraction at Lot 2 DP 216705 in accordance with DA96/0518. If the fill imported to the southern side of Turnock Street has a shell grit content in excess of 1%, then an impermeable barrier shall be placed within the fill batter to the Wallum Froglet Precinct. Any additional fill for topsoil, road base, mulch, etc is to be free of contaminates with details of such fill submitted to Council for approval prior to commencement of work.

[PCC0465]

14. DELETED

- 14.1 The site is to be filled, graded and drained in general accordance with levels and dimensions shown on Filling Plan P162 Issue D prepared by Knobel Consulting Pty Ltd and dated 6/08/2012 except as amended by conditions of consent.

No haulage vehicles are to access the area identified for Wallum Froglet Habitat.

The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.

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

[PCC0485]

15. DELETED

- 15.1 Prior to the issue of a Construction Certificate and or Engineering Plans for the filling work as statutorily required the following detail in accordance with Councils adopted Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

- (a) copies of compliance certificates relied upon
- (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
- earthworks
 - roadworks/furnishings
 - stormwater drainage
 - landscaping and revegetation works
 - sedimentation and erosion management plans

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]

16. DELETED

- 16.1 Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Principal Certifying Authority PRIOR to the issue of a construction certificate for the filling work.

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

[PCC1065]

17. DELETED

- 17.1 An application (or applications) under section 68 of the Local Government Act, 1993 is required prior to commencement of any filling works that involve any of the following:

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

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

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

[PCC1145]

18. The Section 68 Application relating to erosion and sediment control must include a plan prepared in accordance with Section D7.07 of *Development Design Specification D7 – Stormwater*.
- a. The 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".
 - b. Specific requirements to be detailed within the Section 68 application include:
 - (i) The exit from the haul road and the access into the filling site is to be sealed for a length of 15m prior to connection with public roads and is to include wheel washing facilities located prior to entry and exit onto public roads. These details are to be shown on the application for a construction certificate.

[PCC1155]

19. DELETED

19.1 The Section 68 application shall detail the following provisions in relation to stormwater management & quality

- (a) All stormwater quality control devices to be constructed generally in accordance with Plan 1177 – P032 prepared by Knoble Consulting Pty Ltd Issue K dated 3/08/2012 except as modified by conditions of consent.

[PCCNS01]

20. DELETED

21. DELETED

22. DELETED

23. Where water is to be drawn from Councils reticulated system, the proponent shall:

- Make application for the hire of a Tweed Shire Council metered standpipe including Councils nomination of point of extraction.
- Where a current standpipe approval has been issued application must be made for Councils nomination of a point of extraction specific to the development.
- Payment of relevant fees in accordance with Councils adopted fees and charges.

[PCC1205]

24. Notwithstanding the issue of this development consent, prior to the issue of a construction certificate and or engineering plans as statutorily required, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained for works proposed to take place on a public road including:

- a. The construction of new driveway access (or modification of access);

- b. DELETED;
- c. Temporary access to filling sites;
- d. The erection of the conveyor over Tweed Coast Road; and
- e. Any other works located within Council's road reserve.

The application shall include engineering plans and specifications and include copies of compliance certificates relied upon and details relevant to but not limited to the following:

- Road works/furnishings
- Stormwater drainage
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan(s)
- Detail for each of the proposed access points for transportation of the fill. The Tweed Coast Road access is to be constructed outside of peak traffic periods.
- Construction Access to the land north of Turnock Street will require a left turn lane for the left turn truck movements from Turnock Street. Right turn movements into the filling site to the north are not allowed.

The following specific details are required in relation to the for the boxed in conveyor system proposed across Tweed Coast Road for the transportation of fill from the west to the eastern side of the road:

- Minimum vertical clearance above Tweed Coast Road of 6m.
- Supports are located not closer than 5m from the nearest travel lane.
- Conveyor is to be suitably enclosed to ensure no escape of material onto the road reserve.
- A leasing arrangement is to be entered into with Council for use of the road reserve.
- The conveyor system to be dismantled and removed within 18 months of the commencement of filling works.

Applications for consent under Section 138 must be submitted on Council's standard application form, be accompanied by the required attachments and prescribed fee.

[PCCNS01]

25. DELETED

26. DELETED

26.1 Prior to issue of Construction Certificate and or engineering plans for filling works as statutory required, the Applicant shall lodge structural design details, detailing the design of the acoustic hay fence to satisfaction of Council.

[PCCNS01]

27. DELETED

27.1 Prior to the issue of the construction certificate and or engineering plans for filling works as statutory required a construction noise management plan shall be produced for approval by Council that is generally in accordance with the Environmental Noise Impact Assessment prepared by CRG Acoustic al Consultants dated November 2012, the Noise Guideline for Local Government 2010 and the NSW DECC Interim Construction Noise Guidelines 2009.

[PCCNS01]

28. DELETED

28.1 Prior to the issue of the construction certificate and or engineering plans for the filling works as statutory required a Construction Noise Management Plan must be prepared as part of the CEMP. This is to be lodged with Council for approval and must include:

- a) an education program for Construction personnel about noise minimisation.
- b) identification of each Construction activity, including Ancillary Facilities, and their associated noise sources;
- c) identification of all potentially affected Sensitive Receivers (a sensitive receiver is defined as a resident or occupier of a residential property, where the boundary is subject to noise levels recorded above 58 dB(A) L10 OR a commercial premises that is exposed to noise levels above that specified in Australian Standard AS/NZ 2107:2000 "Acoustics – Recommended reverberation times and sound levels for building interiors" when assessed inside the place of business or 58 dB(A) L10 at an outdoor area associated with operation of the business requiring a level of amenity for normal operation of that business;
- d) the Construction noise objective specified in the Conditions of Approval;
- e) noise and vibration monitoring, reporting and response procedures;
- f) a description of management methods and procedures and specific noise mitigation treatments that will be implemented to control noise and vibration during Construction;
- g) justification for any activities outside the Construction hours specified in the Conditions of Approval. This includes identifying areas where construction noise would not be audible at any Sensitive Receiver;
- h) procedures for notifying residents of Construction activities that are likely to affect their noise amenity; and
- i) contingency plans to be implemented in the event of non-compliance and/or noise complaints consultation procedures to be undertaken with residents.

[PCCNS01]

29. DELETED

29.1 A dilapidation report detailing the current structural condition of the adjoining and adjacent buildings, infrastructure and roads is to be prepared and endorsed by a suitably qualified engineer. The report is to be submitted and approved by Council prior to issue of a construction certificate and or engineering plans for the filling works as statutory required.

A second dilapidation report is to be prepared by a suitably qualified person at the completion of the works to ascertain if any structural damage has occurred to the adjoining and adjacent buildings, infrastructure and roads. The report is to be compared with the first report and recommend a course of action to carry out repairs if required. The report is to be submitted for approval by Council.

[PCCNS02]

30. DELETED

- 30.1 Within three weeks of fill being placed on the site in each fill stage, the area is to be topsoiled and mulched to the satisfaction to Tweed Shire Council's engineer. Mulch and topsoil detail are to be shown on the Construction Certificate application and or engineering plans as statutory required. Fertiliser shall not be used on the grassed area proximal to within 20m of the Wallum Froglet Habitat.

[PCCNS02]

31. DELETED

- 31.1 The parts of the site subject to filling are to be adequately fenced with a construction fence, for the works within each relevant stage. The construction fence details are to be shown on the Construction Certificate application.

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

[PCCNS02]

32. DELETED

- 32.1 The Construction Certificate application and or engineering plans as statutory required shall detail the following provisions having regard to perimeter & trunk drainage:

- a. Perimeter stormwater drainage shall be designed and constructed along all external boundaries to convey overland runoff from all external catchments to a lawful point of discharge for all storm events up to the ARI 100 year event without causing flooding of adjoining properties or road reserves. All fill batters, perimeter drainage services and associated formations must be contained wholly within the development site, and must not encroach into adjoining properties or road reserves.
- b. Perimeter cross sections for the entire site are to be provided along the proposed filling perimeter every 20m. The cross sections are to provide existing and proposed finished levels, extending an adequate distance into adjoining land so as to establish external drainage paths.
- c. DELETED
- d. A stormwater drainage channel is to be designed and constructed to convey all runoff from Council's existing 750mm pipeline discharging from Turnock Street to the north east corner of the southern fill area to the Kingscliff drain generally along the alignment shown for the SWD documented on Drawing No. P037 issue H prepared by Knobel Consulting Pty Ltd and dated 08/11/07 and Drawing No. P038 issue G prepared by Knobel Consulting Pty Ltd and dated 29/10/07. The last part of the channel may follow a different path to the SWD, being around the fill to discharge to the Kingscliff drain.

- e. AMENDED - An overland flow path shall be designed and constructed to convey external catchment runoff for the Q100 event from Turnock Street and Lot 100 DP 1071633 through the southern fill area to the Kingscliff Drain in accordance with Drawing Number 1177 – P162 Issue D prepared by Knobel Consulting Pty Ltd and included in Appendix B of the Engineering Report as submitted with the S96AA Reference Number DA05/004.03.
- f. A stormwater drainage channel is to be designed and constructed to convey all runoff from Council's existing 450 mm SWD currently discharging off Pearl Street through Lot 6, DP21242, to the perimeter catch drain around the fill shown on Knobel Consulting Drawing No. P032, issue J, dated 26/10/07.
- g. All drainage works required by this condition must be constructed in accordance with detailed design plans submitted to and approved by Council as part of a Local Government Act 1993, s68 Stormwater Drainage works application/approval.

[PCCNS02]

33. DELETED

34. DELETED

34.1 The Construction Certificate application and or engineering plans as statutory required shall detail the following provisions having regard to existing stormwater infrastructure:

- a) Provision shall be made to connect any other existing public stormwater pipes discharging onto the site, through the filled area to a lawful point of discharge, without adverse impact on flooding in the locality.
- b) The drainage works required by this condition must be constructed in accordance with detailed design plans submitted to and approved by Council as part of a Local Government Act 1993, s68 Stormwater Drainage works application/approval.

[PCCNS02]

35. DELETED

35.1 The Construction Certificate and or engineering plans as statutory required shall detail the following provisions having regard to the construction of Kingscliff Drain:

- a) The Kingscliff Drain south of Turnock Street, adjacent to the filling and provisional water quality treatment area, is to be constructed concurrently with filling of the site south of Turnock Street. The drain shall be constructed from the south eastern extent of the provisional water quality treatment works shown on drawing P153 Issue H, dated 3/08/12 to the box culverts under Turnock Street.
- b) Except as varied by this condition, the above drain is to be constructed in general accordance with the trapezoidal channel cross section, and "access maintenance hardstand", shown on "Main Drain 0-2000 (fig 7.3)" contained in "Appendix B: Supplementary TSC Cross Section Details" contained in "Kingscliff Catchment & Drainage Management Plan" prepared by WBM Oceanics, Revision 3 Dated 24/3/00. No "variable purpose" cross section construction is required beyond the northern limit of the "access maintenance hardstand" on the northern side of the drain. The fill batter shown on Plan P162 Issue D dated 6/08/12 will commence 3.5 m from the top of bank of the drain to allow for the "access maintenance hardstand". The 3.0m wide access maintenance hard stand area along the Kingscliff Drain is to be constructed on the north side of the drain from and connected to Turnock Street. A vehicle turn around area is to be constructed at

- the other end to permit vehicles using the maintenance access area to turn around. The design of the maintenance access must account for all transverse connections to the Kingscliff Drain, to remain trafficable without impeding runoff or causing flooding on upstream land.
- c) In the section of drain from the box culverts under Turnock Street, east to the start of filling works the cross section on the north side shall be modified to accommodate entry of runoff from the north. The maintenance access may include a series of floodway crossings in this section to enable flow of runoff from the north to cross over the access.
 - d) On the south side of the drain, the constructed cross section is to terminate where the revetted bank section intersects natural surface level. No bank or "variable multipurpose" cross section construction is required beyond this point.
 - e) The edge treatment and revetment of the drain may be varied to create a more "natural" aesthetically pleasing appearance, providing the hydraulic efficiency and maintainability of the drain is not adversely affected.
 - f) The nominal 1.0m width of the drain invert may be increased to provide a more "natural" aesthetically pleasing appearance.
 - g) The invert of the drain is to be a maximum RL -0.5 AHD from the south-eastern extent of the fill to the invert of the culvert under Turnock Street. It may then taper up to the existing drain outlet invert at St Anthony's School (lot 2 DP 610174) boundary. Level detail is to be provided for the drain invert.
 - h) Prior to the commencement of filling work a drainage easement is to be created benefiting Council over the main Kingscliff drain from St Anthony's school to the box culverts under Turnock Street where it traverses lots 11, 12 & 13 DP 871753. The width of the easement shall be from the southern edge of revetment on the south side of the drain to the northern side of the maintenance access on the north side of the drain. Some meandering of the drain about the centreline may be permitted to provide a more "natural" aesthetically pleasing appearance. The easement must allow the bridging of the drain for access and the works referred to in this condition may be removed or altered for the purpose of constructing access ways so long as they are reinstated to a similar standard.
 - i) The drainage works (including the associated works in the drainage easement) required by this condition must be constructed in accordance with detailed design plans submitted to and approved by Council as part of a Local Government Act 1993, s68 Stormwater Drainage works application/approval.
36. The Construction Certificate application and or engineering plans as statutory required shall detail the following provisions having regard to the construction of the haul road;
- a) The plans accompanying a Section 68 stormwater application must ensure there is adequate capacity transverse drainage under/across the haul road to ensure runoff is not impeded or flooding caused on upstream land.
 - b) Where the proposed haul road crosses the Kingscliff Drain, a culvert system with invert level -0.5m generally in accordance with Section 2 of Knobel Consulting Plan P030 (provided it complies with the criteria in (a) above) or other configuration approved by Council shall be provided under the road.
 - c) All culverts constructed over the Kingscliff Drain to facilitate construction of the haul road shall be removed at the completion of filling works.

- d) The drainage works required by this condition must be constructed in accordance with detailed design plans submitted to and approved by Council as part of a Local Government Act 1993, s68 Stormwater Drainage works application/approval.

[PCCNS02]

37. DELETED

- 37.1 Traffic Management Plans are required prior to the issue of a construction certificate application and or engineering plans for each differing stage of the filling works. The traffic management plans shall be in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2. The plans are to be prepared by an RTA accredited person shall be submitted to the Principal Certifying Authority. Safe public access shall be provided at all times.

The Traffic Management Plans are to include all temporary signage and road layouts for each stage of the proposed works. The plans are to also provide for pedestrian and cycle movements.

[PCCNS02]

38. The application for a construction certificate and or engineering plans shall detail the conveyor belt over Tweed Coast Road, including the structural design details, the intended colours, a landscaping plan to ensure the stockpile site is screened from the road and to ensure dust is screened to mitigate dust encroaching onto Tweed Coast Road.

[PCCNS02]

39. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved management plans or the like, shall be installed/operated in accordance with those conditions or plans.

[PCW0015]

40. Prior to the commencement of works, the applicant shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with either:

- a. Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
- b. AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
- c. WorkCover Regulations 2000.

41. Prior to work commencing, a "Notice of Commencement of Work shall be submitted to Council or principal certifying authority at least 2 days prior to work commencing.

[PCW0225]

42. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours,

and

(c) stating that unauthorised entry to the site is prohibited.

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

[PCW0255]

43. Filling work in accordance with a development consent must not be commenced until a construction certificate for the civil work has been issued in accordance with Councils adopted Development Design and Construction Specification C101 by Council.
44. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$20 Million for the period of commencement of works until the completion of the defects liability period.

[PCW0835]

45. DELETED

- 45.1 Prior to commencement of work on the site relevant all erosion and sedimentation control measures are to be installed and operational. Prior to the commencement of filling works the wheel wash facility shall be installed to the satisfaction of Council.

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

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

[PCW0985]

DURING CONSTRUCTION

46. DELETED

- 46.1 The alternative Wallum Froglet Habitat Area is to be managed in accordance with the approved Threatened Species Management Plan for Wallum Froglet Habitat in Kingscliff prepared by Michael Mahoney, Anne Clements and Associates and Stephen N Webb and Associates dated 22 April 2013.
47. During construction, all works required by other conditions or approved management plans (including noise, dust, frog habitat, traffic, storm water, water quality, sediment and erosion control, and the environmental management plan) or the like shall be installed and operated in accordance with those conditions or plans.

[DUR0015]

48. DELETED

- 48.1 During the approved staged rehabilitation of the alternative Wallum Froglet Habitat Area, monitoring is to be conducted in accordance with the approved Wallum Froglet Habitat Management Plan dated 22 April 2013.
49. The Council and/or Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection.

[DUR0415]

50. DELETED

50.1 The proponent shall ensure a maximum 580,000m³ of extractive material is imported to the site along the approved haul route from the sources nominated in the development application.

[DUR0735]

51. DELETED

51.1 During filling operations:

- All fill and cut batters shall be contained wholly within the subject land.
- All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan, Part A5 – Subdivision Manual and the Design Specification D6 Site Regrading to the satisfaction of the Principal Certifying Authority.

and upon completion,

- All topsoil and mulch is to be respread and the site to be grassed and landscaped including battered areas.

[DUR0755]

52. 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 Council upon completion.

[DUR0795]

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

[DUR0815]

54. 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]

55. 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 release of the bond.

[DUR0995]

56. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. All such materials should be chipped on site (in accordance with the noise management plan) and used in landscaping unless it is not possible due to size, non suitability of the material or some other limitation, in which case the material will be disposed of at Council's Stotts Creek depot.

[DUR1015]

57. All practicable measures in accordance with the management plans must be taken to prevent and minimise harm to the neighbourhood, adjacent development and the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]

58. 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]

59. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act.

[DUR1885]

60. 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, based on the rates contained in Council's current Fees and Charges:

Roadworks

- a. Pre-construction commencement erosion and sedimentation control measures
- b. Completion of earthworks
- c. Permanent erosion and sedimentation control measures
- d. Drainage channels and associated stormwater infrastructure
- e. Final Inspection for bond release

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]

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

[DUR2015]

62. 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]

63. Appropriate measures are to be put in place during the construction and/or demolition period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event.

[DUR2405]

64. All fuels or chemicals shall be stored within a bunded area and not permitted to discharge or percolate to any watercourse. [DURNS01]
65. DELETED
66. The site shall not be dewatered without prior approval from the relevant authority and notification to Council. [DURNS01]
67. All surface water within the fill site shall be directed to the sedimentation ponds, monitored and treated (where necessary), before discharge from the site. [DURNS01]
68. 'Run on water' to the fill site shall be diverted, where possible, clear of the site. [DURNS01]
69. A sufficient number of 'on site builder's toilets' shall be provided to manage wastewater from on site employees. [DURNS01]
70. Vegetation shall not be removed or damaged except as strictly necessary to undertake the proposed works. [DURNS01]
71. Disturbance of 'monosulfide black ooze' shall be limited approximately to 40m of the main drain where the haul route crosses the drain. [DURNS01]
72. DELETED
- 72.1 All material stripped and identified as PASS from the site or disturbed below existing ground level shall be placed within a bunded area and neutralised in accordance with the Acid Sulfate Soil Management Plan & Groundwater Management Plan HMC Environmental P/L, December 2012 before reuse or removal from the site. [DURNS01]
73. All extracted fill materials shall be treated for acid sulfate potential prior to being transported across Chinderah Road. [DURNS01]
74. Effective sediment and erosion controls shall be placed around all soil stockpiles and the perimeter of the proposed development site, and maintained for the duration of the proposed works to the satisfaction of the General Manager of his delegate. [DURNS01]
75. Construction must only be carried out between the hours of 7.00 am to 6.00 pm (Monday to Friday), 8.00 am to 1.00 pm (Saturday) and at no time on Sunday and public holidays except:
- a) for the delivery of materials required outside these hours by the Police or other authorities for safety reasons; or
 - b) where it is required in an emergency to avoid the loss of lives, property and/or to prevent environmental harm; or
 - c) where the work is identified in the Construction Noise and Vibration Management Plan and approved as part of the CEMP.

Local residents must be informed of the timing and duration of work approved under item (c) at least 48 hours before that work commences.

[DURNS01]

76. All works detailed in the Construction Noise Management Plan and associated Noise Impact Assessment for Construction Works be implemented for the period of construction works.

[DURNS01]

77. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. All plant is to be kept in good operating condition, with regular inspections of the plant to minimise potential to generate noise nuisance.

[DURNS01]

78. Water trucks are to be available on the site at all times during filling operations. Dust creating activities are to cease when high winds exist and causes nuisance to neighbouring properties.

[DURNS02]

POST CONSTRUCTION & MANAGEMENT

79. DELETED

- 79.1 The alternative Wallum Froglet Habitat Area is to be managed in accordance with the approved Threatened Species Management Plan for Wallum Froglet Habitat in Kingscliff prepared by Michael Mahoney, Anne Clements and Associates and Stephen N Webb and Associates dated 22 April 2013. Upon any application for subdivision such application is to include provision for transfer of the management.

80. DELETED

- 80.1 Post filling operations the temporary haul road is to be rehabilitated in accordance with Condition 10.1 of this consent.

81. DELETED

82. DELETED

GENERAL TERMS OF APPROVAL UNDER SECTION 200 OF THE FISHERIES MANAGEMENT ACT 1994

83. Filling is only to be undertaken subsequent to an appropriate authorisation from a relevant public authority (other than a local Council) consistent with s200 of the Fisheries Management Act 1994.

GENERAL TERMS OF APPROVAL PERMIT UNDER s 89, 90, & 91 WATER MANAGEMENT ACT 2000

84. DELETED

- 84.1 The applicant is to obtain necessary approvals, if any, in accordance with the Water Management Act 2000 prior to commencement of filling work. Should dewatering be required the Council is to be notified 48 hours prior to commencement of works

TERMS OF FIRST RESTRICTIVE COVENANT REFERRED TO IN ORDERS

The area to which the restrictive covenant relates is that part of Lot 13 DP 871753 bounded on the east by the eastern boundary of that Lot, on the north by the southern bank of the east/west drain, on the west by the eastern bank of the drain running from Quigan Street to

the east/west drain and on the south by Quigan Street all as shown on the plan annexed marked A subject to final survey plan.

Restrictive covenant for conservation purposes in respect of the Mitchell's Rainforest_Snail to be created under s. 88E of the Conveyancing Act 1919 for the benefit of the Tweed Shire Council on the terms specified below.

RESTRICTIVE COVENANT FOR CONSERVATION PURPOSES

1. In this instrument, unless the contrary intention appears –

“animals” includes sheep, goats, horses, deer and cattle.

“clearing” and “cleared” in relation to the land, means the ringbarking, cutting, stripping, cutting down, felling, poisoning, lopping, topping, burning, injuring, removal or destruction in any manner whatsoever of vegetation or any part of vegetation growing on the land.

“development” in relation to land, means –

- (a) the erection of a building or structure (other than a fence) on the land; or
- (b) the carrying out of a work in, on over or under the land;

“land” means the land described in the Schedule.

“Management Plan” means a plan for the management of the land (by whatever title it is called) approved under the *Environmental Planning and Assessment Act 1979* or any Act consolidating or replacing that Act, or agreed between the registered proprietor and the Tweed Shire Council, and any amendment or replacement of the plan.

“registered proprietor” means the registered proprietor for the time being of the land recorded in the Register under the *Real Property Act 1900*.

“substance” in relation to the land includes timber, turf, stone, clay, shells, earth, sand and gravel.

“vegetation” in relation to the land means plants indigenous to the State of New South Wales including trees, saplings and seedlings of trees, plants, shrubs, ferns, vines, herbs, grasses and other vegetable cover which are endemic to the land.

2. Without the prior written consent of the Tweed Shire Council –

- (a) no person shall reside on the land;

- (b) no animal shall be depastured or driven on the land;
 - (c) no development shall be carried out on the land;
 - (d) the land shall not be cleared, slashed or cultivated;
 - (e) no substance, whether or not in or forming part of the land, shall be interfered with;
 - (f) no fire shall be lit on the land;
 - (g) no use shall be made of the land or activities on the land which would result in the clearing of vegetation on the land; and
 - (h) no use shall be made of the land or activities undertaken on the land which would interfere with or prevent the natural growth or regeneration of vegetation on the land.
3. This covenant does not prevent or restrict in accordance with law:
- (a) the destruction or removal of vegetation declared to be a noxious weed under the *Noxious Weeds Act 1993* or an Act consolidating or replacing that Act; or
 - (b) the destruction or removal of vegetation which is a prohibited plant within the meaning of the *Drug Misuse and Trafficking Act 1985* or an Act consolidating or replacing that Act; or
 - (c) the incidental destruction or removal of vegetation lying adjacent to any noxious weeds or prohibited plants where such incidental destruction or removal occurs unavoidably during the process of destroying or removing those noxious weeds or prohibited plants; or
 - (d) the destruction or removal of vegetation within 1 metre of the external boundaries of the land for the purpose of erecting or maintaining a fence along those boundaries; or
 - (e) the destruction or removal of vegetation within 0.5 metres of the land for the purpose of enabling a survey to be carried out along those boundaries by a surveyor registered under the *Surveyors Act 2001* or any Act consolidating or replacing that Act;
 - (f) the destruction or removal of vegetation or substance in compliance with the *Rural Fires Act 1997* or any Act consolidating or replacing that Act; or

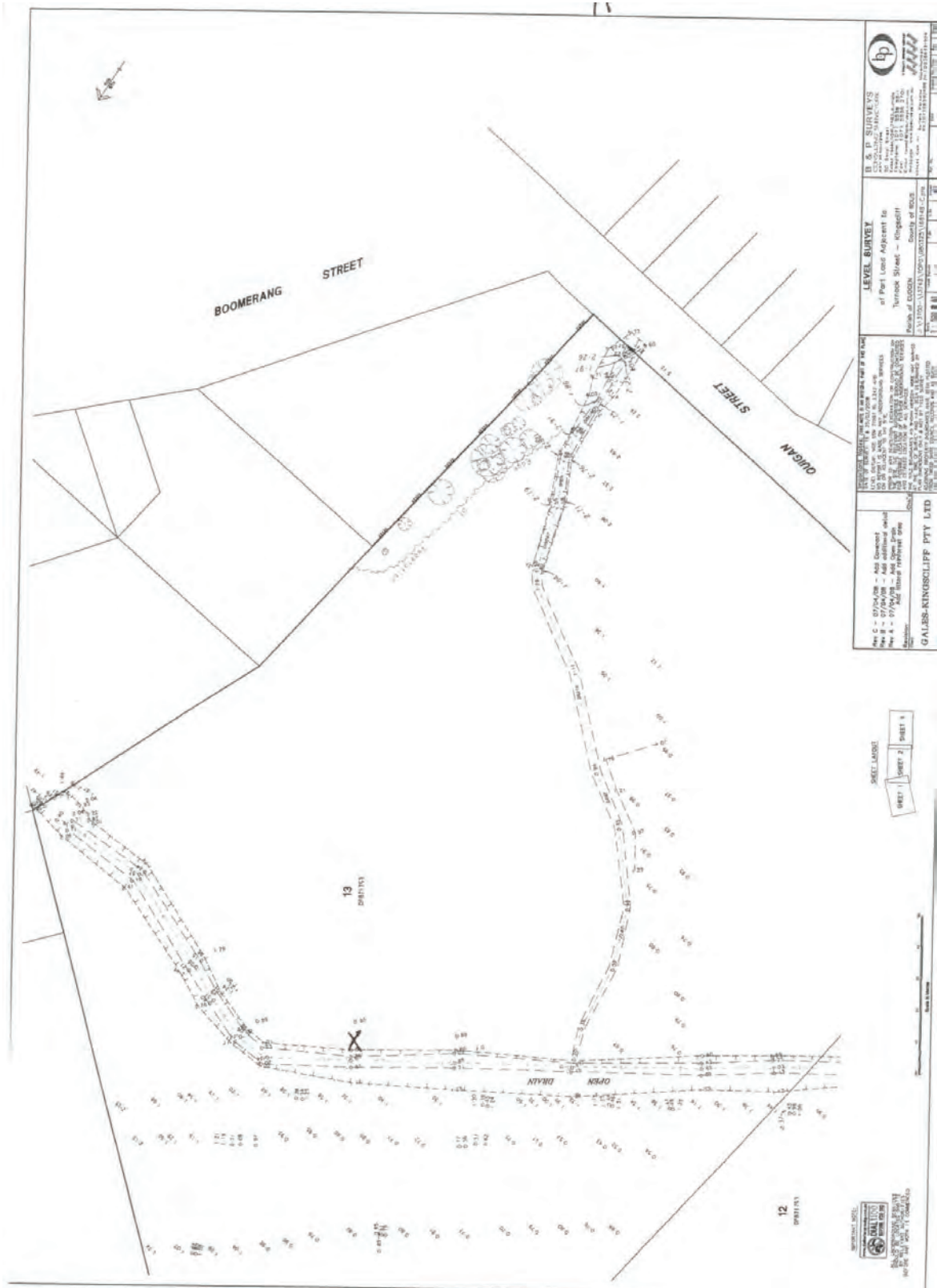
- (g) the destruction or removal of vegetation or substance within 3 metres of the top bank of any drain on or adjoining the land for the purpose of maintaining the drain (but excluding the southern bank of the east/west drain for its length from the eastern boundary of Lot 13 to the point marked "x" shown on the annexed Plan marked "A" being B & P Survey Plan 16814B Revision C);
- (h) the removal of refuse, garbage, rubbish or any other noisome, noxious, poisonous or unwholesome matter;
- (i) the taking of reasonable precautions to keep the land free of noxious weeds, rodents or vermin;
- (j) carrying out environmental protection works, being works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works and the like;
- (k) erecting, carrying out or using the land for environmental facilities, being a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, boardwalks, observation decks, bird hides, or the like, and associated display structures;
- (l) carrying out any other work permitted by the Management Plan.

4.

- (a) The restriction on the use of the land shall be released and revoked to the extent to which it applies to any part of the land in relation to which a conservation agreement is entered into under Part 4 of Division 7 of the *National Parks and Wildlife Act 1974*.
- (b) The date of release and revocation of restriction on use (whether wholly or in part) shall be the date from which such conservation agreement has effect.
- (c) The restriction on use may otherwise be released with the consent of the Tweed Shire Council.

5. Any work on the land the subject of this covenant shall be carried out under the guidance of a Mitchell rainforest Snail ecologist in accordance with the recommendations of such ecologist and be consistent with any management plan.

- 5A Nothing in this covenant shall be construed as avoiding the need to obtain any consent under any applicable legislation.
6. The prior written consent of Council is taken to have been given under clause 2 if an approval consent or authorisation of any kind is given for the activity by a public authority having power to do so (or a court or other person or body on appeal or review) under the Environmental Planning and Assessment Act 1979 or any Act replacing it.



TERMS OF SECOND RESTRICTIVE COVENANT REFERRED TO IN ORDERS
The area to which the restrictive covenant relates is those parts of Lots 11 and 12 DP 871753 as shall be defined and detailed in final survey plan approximately as follows:

In relation to Lot 11 the area to the south of Turnock St bounded on the north by Turnock St, on the west by the western boundary of the Lot and on the east by the eastern boundary of the Lot; and

In relation to Lot 12 the area to the south of Turnock St bounded on the north by Turnock St, on the west by the western boundary of the Lot, on the south by the northern edge of the drainage easement created under Condition 35(b) in respect of the Kingscliff drain and on the east by the line of the western extent of the fill shown on Knobel Consulting Drawing PO38, Issue G dated 29/10/07; and

Restrictive covenant for conservation purposes in respect of the Wallum Froglet to be created under s. 88E of the Conveyancing Act 1919 for the benefit of the Tweed Shire Council on the terms specified below.

RESTRICTIVE COVENANT FOR CONSERVATION PURPOSES

1. In this instrument, unless the contrary intention appears –

“animals” includes sheep, goats, horses, deer and cattle.

“clearing” and “cleared” in relation to the land, means the ringbarking, cutting, stripping, cutting down, felling, poisoning, lopping, topping, burning, injuring, removal or destruction in any manner whatsoever of vegetation or any part of vegetation growing on the land.

“development” in relation to land, means –

- (a) the erection of a building or structure (other than a fence) on the land; or
- (b) the carrying out of a work in, on over or under the land;

“land” means the land described in the Schedule.

“Management Plan” means a plan for the management of the land (by whatever title it is called) approved under the *Environmental Planning and Assessment Act 1979* or any Act consolidating or replacing that Act, or agreed between the registered proprietor and the Tweed Shire Council, and any amendment or replacement of the plan.

“registered proprietor” means the registered proprietor for the time being of the land recorded in the Register under the *Real Property Act 1900*.

“substance” in relation to the land includes timber, turf, stone, clay, shells, earth, sand and gravel.

“vegetation” in relation to the land means plants indigenous to the State of New South Wales including trees, saplings and seedlings of trees, plants, shrubs, ferns, vines, herbs, grasses and other vegetable cover which are endemic to the land.

2. Without the prior written consent of the Tweed Shire Council –
 - (a) no person shall reside on the land;
 - (b) no animal shall be depastured or driven on the land;
 - (c) no development shall be carried out on the land;
 - (d) the land shall not be cleared, slashed or cultivated;
 - (e) no substance, whether or not in or forming part of the land, shall be interfered with;
 - (f) no fire shall be lit on the land;
 - (g) no use shall be made of the land or activities on the land which would result in the clearing of vegetation on the land; and
 - (h) no use shall be made of the land or activities undertaken on the land which would interfere with or prevent the natural growth or regeneration of vegetation on the land.

3. This covenant does not prevent or restrict in accordance with law:
 - (a) the destruction or removal of vegetation declared to be a noxious weed under the *Noxious Weeds Act 1993* or an Act consolidating or replacing that Act; or
 - (b) the destruction or removal of vegetation which is a prohibited plant within the meaning of the *Drug Misuse and Trafficking Act 1985* or an Act consolidating or replacing that Act; or
 - (c) the incidental destruction or removal of vegetation lying adjacent to any noxious weeds or prohibited plants where such incidental destruction or removal occurs unavoidably during the process of destroying or removing those noxious weeds or prohibited plants; or
 - (d) the destruction or removal of vegetation within 1 metre of the external boundaries of the land for the purpose of erecting or maintaining a fence along those boundaries; or
 - (e) the destruction or removal of vegetation within 0.5 metres of the land for the purpose of enabling a survey to be carried out along those boundaries by a surveyor registered under the *Surveyors Act 2001* or any Act consolidating or replacing that Act;
 - (f) the destruction or removal of vegetation or substance in compliance with the *Rural Fires Act 1997* or any Act consolidating or replacing that Act; or

- (g) the destruction or removal of vegetation or substance within 3 metres of the top bank of any drain on or adjoining the land for the purpose of maintaining the drain;
 - (h) the removal of refuse, garbage, rubbish or any other noisome, noxious, poisonous or unwholesome matter;
 - (i) the taking of reasonable precautions to keep the land free of noxious weeds, rodents or vermin;
 - (j) carrying out environmental protection works, being works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works and the like;
 - (k) erecting, carrying out or using the land for environmental facilities, being a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, boardwalks, observation decks, bird hides, or the like, and associated display structures;
 - (l) carrying out any other work permitted by the Management Plan.
- 4.
- (a) The restriction on the use of the land shall be released and revoked to the extent to which it applies to any part of the land in relation to which a conservation agreement is entered into under Part 4 of Division 7 of the *National Parks and Wildlife Act 1974*.
 - (b) The date of release and revocation of restriction on use (whether wholly or in part) shall be the date from which such conservation agreement has effect.
 - (c) The restriction on use may otherwise be released with the consent of the Tweed Shire Council.
7. Any work on the land the subject of this covenant shall be carried out under the guidance of an ecologist with experience and expertise in the habitat of the wallum froglet.
- 7A Nothing in this covenant shall be construed as avoiding the need to obtain any consent under any applicable legislation

8. The prior written consent of Council is taken to have been given under clause 2 if an approval consent or authorisation of any kind is given for the activity by a public authority having power to do so (or a court or other person or body on appeal or review) under the Environmental Planning and Assessment Act 1979 or any Act replacing it.

TERMS OF THIRD RESTRICTIVE COVENANT REFERRED TO IN ORDERS

The area to which the restrictive covenant relates is that part of Lots 1, 2 and 3 DP 781714 shown as covenant area (approx. 4440 m²) on B & P Surveys drawing 16814 B Revision C Sheet 1 annexed hereto which specifies within the covenant area the littoral rainforest area (coloured green).

Restrictive covenant for conservation purposes in respect of Littoral Rainforest to be created under s. 88E of the Conveyancing Act 1919 for the benefit of the Tweed Shire Council on the terms specified below.

RESTRICTIVE COVENANT FOR CONSERVATION PURPOSES

1. In this instrument, unless the contrary intention appears –

“animals” includes sheep, goats, horses, deer and cattle.

“clearing” and “cleared” in relation to the land, means the ringbarking, cutting, stripping, cutting down, felling, poisoning, lopping, topping, burning, injuring, removal or destruction in any manner whatsoever of vegetation or any part of vegetation growing on the land.

“development” in relation to land, means –

- (c) the erection of a building or structure (other than a fence) on the land; or
- (d) the carrying out of a work in, on over or under the land;

“land” means the land described in the Schedule.

“Management Plan” means a plan for the management of the land (by whatever title it is called) approved under the *Environmental Planning and Assessment Act 1979* or any Act consolidating or replacing that Act, or agreed between the registered proprietor and the Tweed Shire Council, and any amendment or replacement of the plan.

“registered proprietor” means the registered proprietor for the time being of the land recorded in the Register under the *Real Property Act 1900*.

“substance” in relation to the land includes timber, turf, stone, clay, shells, earth, sand and gravel.

“vegetation” in relation to the land means plants indigenous to the State of New South Wales including trees, saplings and seedlings of trees, plants, shrubs, ferns, vines, herbs, grasses and other vegetable cover which are endemic to the land.

2. Without the prior written consent of the Tweed Shire Council –
 - (a) in respect of the area coloured green on B & P Surveys Drawing 16814B Rev C the land shall not be cleared, slashed, grazed or cultivated;
 - (b) in respect of the area coloured green on B & P Surveys Drawing 16814B Rev C no use shall be made of the land or activities on the land which would result in the clearing of vegetation on the land; and
 - (c) no use shall be made of nor activities undertaken on the land the subject of this covenant which would interfere with the ecological integrity of the littoral rainforest vegetation community in the area coloured green on B&P Surveys Drawing 16814B Rev C.
3. This covenant does not prevent or restrict in accordance with Law:
 - (a) the destruction or removal of vegetation declared to be a noxious weed under the *Noxious Weeds Act 1993* or an Act consolidating or replacing that Act; or
 - (b) the destruction or removal of vegetation which is a prohibited plant within the meaning of the *Drug Misuse and Trafficking Act 1985* or an Act consolidating or replacing that Act; or
 - (c) the incidental destruction or removal of vegetation lying adjacent to any noxious weeds or prohibited plants where such incidental destruction or removal occurs unavoidably during the process of destroying or removing those noxious weeds or prohibited plants; or
 - (d) the destruction or removal of vegetation within 1 metre of the external boundaries of the land for the purpose of erecting or maintaining a fence along those boundaries; or
 - (e) the destruction or removal of vegetation within 0.5 metres of the land for the purpose of enabling a survey to be carried out along those boundaries by a surveyor registered under the *Surveyors Act 2001* or any Act consolidating or replacing that Act;
 - (f) the destruction or removal of vegetation or substance in compliance with the *Rural Fires Act 1997* or any Act consolidating or replacing that Act; or

- (g) the destruction or removal of vegetation or substance within 3 metres of the top bank of any drain on or adjoining the land for the purpose of maintaining the drain;
- (h) the removal of refuse, garbage, rubbish or any other noisome, noxious, poisonous or unwholesome matter;
- (i) the taking of reasonable precautions to keep the land free of noxious weeds, rodents or vermin;
- (j) carrying out environmental protection works, being works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works and the like;
- (k) erecting, carrying out or using the land for environmental facilities, being a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, boardwalks, observation decks, bird hides, or the like, and associated display structures;
- (l) carrying out any other work permitted by the Management Plan.
- (m) landscaping and management (including mowing and weeding) outside the littoral rainforest area coloured green on B & P Survey drawing 16814B Revision C ("The littoral rainforest area") and which does not interfere with the ecological integrity of the littoral rainforest area.
- (n) the construction outside the littoral rainforest area of services for development the subject of consent or approval on any of the said lots and which does not interfere with the integrity of the littoral rainforest area.
- (o) Carrying out any work which would not interfere with the ecological integrity of the littoral rainforest vegetation community in the area coloured green on B&P Survey Drawing 16814B Rev C.

4.

- (a) The restriction on the use of the land shall be released and revoked to the extent to which it applies to any part of the land in relation to which a conservation agreement is entered into under Part 4 of Division 7 of the *National Parks and Wildlife Act 1974*.
- (b) The date of release and revocation of restriction on use (whether wholly or in part) shall be the date from which such conservation agreement has effect.

- (c) The restriction on use may otherwise be released with the consent of the Tweed Shire Council.
- 5. Any work on the land the subject of this covenant shall be carried out under the guidance of an ecologist with experience and expertise in littoral rainforest.
- 5A Nothing in this covenant shall be construed as avoiding the need to obtain any consent under any applicable legislation.
- 6. The prior written consent of Council is taken to have been given under clause 2 if an approval consent or authorisation of any kind is given for the activity by a public authority having power to do so (or a court or other person or body on appeal or review) under the Environmental Planning and Assessment Act 1979 or any Act replacing it.



TERMS OF FOURTH RESTRICTIVE COVENANT REFERRED TO IN ORDERS

The area to which the restrictive covenant relates is Lot 26D in DP 10715 shown indicatively as the Wallum Froglet Habitat Area (WFHA) being west of Elrond Drive as shown on Plan 1177 Drawing Number P166 Issue D as prepared by Knobel Consulting Pty Ltd and dated 12/12/2012. For practical purposes the extent of the Covenant needs to embrace this area and extend to the fenceline in the East and either the fenceline or the top of bank of the drain in the south. The other boundaries are appropriate. The extent is to be detailed on a final survey plan.

Restrictive covenant for conservation purposes in respect of the Wallum Froglet to be created under s. 88E of the Conveyancing Act 1919 for the benefit of the Tweed Shire Council on the terms specified below.

RESTRICTIVE COVENANT FOR CONSERVATION PURPOSES

1. *In this instrument, unless the contrary intention appears –*

“animals” includes sheep, goats, horses, deer and cattle.

“clearing” and “cleared” in relation to the land, means the ringbarking, cutting, stripping, cutting down, felling, poisoning, lopping, topping, burning, injuring, removal or destruction in any manner whatsoever of vegetation or any part of vegetation growing on the land.

“development” in relation to land, means –

(a) the erection of a building or structure (other than a fence) on the land;
or

(b) the carrying out of a work in, on over or under the land;

“Management Plan” means a plan for the management of the land (by whatever title it is called) approved under the Environmental Planning and Assessment Act 1979 or any Act consolidating or replacing that Act, or agreed between the registered proprietor and the Tweed Shire Council, and any amendment or replacement of the plan.

“registered proprietor” means the registered proprietor for the time being of the land recorded in the Register under the Real Property Act 1900.

“substance” in relation to the land includes timber, turf, stone, clay, shells, earth, sand and gravel.

“vegetation” in relation to the land means plants indigenous to the State of New South Wales including trees, saplings and seedlings of trees, plants, shrubs, ferns, vines, herbs, grasses and other vegetable cover which are endemic to the land.

2. *In respect of the Wallum Froglet Habitat Area shown on Plan 1177 Drawing Number P166 Issue D as prepared by Knobel Consulting Pty Ltd and dated 12/12/2012;*
 - (i) *Without the prior written consent of the Tweed Shire Council –*
 - (a) *no person shall reside on the land;*
 - (b) *no animal shall be depastured or driven on the land;*
 - (c) *no development shall be carried out on the land;*
 - (d) *the land shall not be cleared, slashed or cultivated;*
 - (e) *no substance, whether or not in or forming part of the land, shall be interfered with;*
 - (f) *no fire shall be lit on the land;*
 - (g) *no use shall be made of the land or activities on the land which would result in the clearing of vegetation on the land; and*
 - (h) *no use shall be made of the land or activities undertaken on the land which would interfere with or prevent the natural growth or regeneration of vegetation on the land.*
 - (ii) *Any work shall be carried out under the guidance of an ecologist with experience and expertise in the habitat of the Wallum Froglet.*
3. *In respect of all areas shown indicatively as Wallum Froglet Habitat Area on the Plan 1177 Drawing Number P166 Issue D as prepared by Knobel Consulting Pty Ltd and dated 12/12/2012 other than those referred to in clause 2 above, such land shall be managed to facilitate the conservation of the wallum froglet in the Wallum Froglet Habitat Area.*
4. *This covenant does not prevent or restrict in accordance with Law:*
 - (a) *the destruction or removal of vegetation declared to be a noxious weed under the Noxious Weeds Act 1993 or an Act consolidating or replacing that Act; or*
 - (b) *the destruction or removal of vegetation which is a prohibited plant within the meaning of the Drug Misuse and Trafficking Act 1985 or an Act consolidating or replacing that Act; or*

- (c) *the incidental destruction or removal of vegetation lying adjacent to any noxious weeds or prohibited plants where such incidental destruction or removal occurs unavoidably during the process of destroying or removing those noxious weeds or prohibited plants; or*
- (d) *the destruction or removal of vegetation within 1 metre of the external boundaries of the land for the purpose of erecting or maintaining a fence along those boundaries; or*
- (e) *the destruction or removal of vegetation within 0.5 metres of the land for the purpose of enabling a survey to be carried out along those boundaries by a surveyor registered under the Surveyors Act 2001 or any Act consolidating or replacing that Act;*
- (f) *the destruction or removal of vegetation or substance in compliance with the Rural Fires Act 1997 or any Act consolidating or replacing that Act; or*
- (g) *the removal of refuse, garbage, rubbish or any other noisome, noxious, poisonous or unwholesome matter;*
- (h) *the taking of reasonable precautions to keep the land free of noxious weeds, rodents or vermin;*
- (i) *carrying out environmental protection works, being works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works and the like;*
- (j) *DELETED;*
- (k) *carrying out any other work permitted by the Management Plan.*
- (l) *carrying out any other work pursuant to development consent DA05/0004 and maintenance thereof.*

5.

- (a) *The restriction on the use of the land shall be released and revoked to the extent to which it applies to any part of the land in relation to which a conservation agreement is entered into under Part 4 of Division 7 of the National Parks and Wildlife Act 1974.*
- (b) *The date of release and revocation of restriction on use (whether wholly or in part) shall be the date from which such conservation agreement has effect.*

(c) *The restriction on use may otherwise be released with the consent of the Tweed Shire Council.*

5A *Nothing in this covenant shall be construed as avoiding the need to obtain any consent under any applicable legislation.*

6. *The prior written consent of Council is taken to have been given under clause 2 if an approval consent or authorisation of any kind is given for the activity by a public authority having power to do so (or a court or other person or body on appeal or review) under the Environmental Planning and Assessment Act 1979 or any Act replacing it.*

The Motion was **Carried**

FOR VOTE - Unanimous

32 [PR-CM] Development Application DA12/0553 for a Dual Occupancy Including Demolition of Existing Dwelling/Structures at Lot 395 DP 755701 No. 55 Tweed Coast Road, Hastings Point

9

**Cr G Bagnall
Cr K Milne**

RESOLVED that Development Application DA12/0553 for a dual occupancy including demolition of exiting dwelling/structures at Lot 395 DP 755701 No. 55 Tweed Coast Road, Hastings Point be approved subject to the following conditions:

A. State Environmental Planning Policy No. 1 objection to Clause 32B(4)(b) of the North Coast Regional Environmental Plan 1988 relating to overshadowing be supported and the concurrence of the Director-General of the Department of Planning be assumed.

B. GENERAL

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

- Site Plan (Drawing No. DA1.3a)
- Ground Floor Plan (Drawing No. DA2.1a)
- First Floor Plan (Drawing No. DA2.2a)
- North and East Elevation (Drawing No. DA3.1a)
- South and West Elevation (Drawing No. D3.2)

prepared by Schafer Design and dated 1 February 2013, except where varied by the conditions of 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 development is to be carried out in accordance with Councils Development Design and Construction Specifications.

[GEN0265]
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 such things as road bitumen or fence lines.

[GEN0300]
6. As the dwellings are located on a designated road, both residential units are to have an acoustic seal on the front door to reduce noise transmission.

[GENNS01]
7. The subject development site adjoins Lot 7062 DP 1113884 comprising part of Tweed Coast Regional Crown Reserve (R1012191). This development consent does not confer any right on the proponent to;
 - Encroach upon the Crown Reserve;
 - Remove any native vegetation from the Reserve;
 - Stockpile any materials or store any equipment, plant or machinery on the Reserve;
 - Use the Reserve for vehicular access;
 - Establish any asset protection zones on the Reserve; or
 - Discharge stormwater or deposit wastes onto the Reserve.

[GENNS02]
8. The approved development shall not result in any clearing of native vegetation without prior approval from the relevant authority.

[GENNS03]
9. At the commencement of building works and in perpetuity the entire property 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'.
10. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
11. New construction on the western elevation(s) shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

12. New construction on northern, southern and eastern elevations shall comply with Sections 3 and 6 (BAL 19) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

13. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

[GENNS04]

14. All living room and bedroom windows orientated towards Tweed Coast Road are to be fitted with double glazing.

15. Side and rear fencing is to be installed in accordance with the provisions of Tweed Shire Council Development Control Plan (DCP) A1 (Part A) for the subject site.

[GENNS05]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

16. The developer shall provide two (2) parking spaces per dwelling and one (1) Visitor Parking Space on the subject site including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

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

The visitor carpark must provide full access for the 85 percentile car in accordance with Part 1, Appendix B of Australian Standard AS2890.1-1993.

[PCC0065]

17. 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]

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

[PCC0465]

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

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

[PCC0485]

20. 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]

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

- (a) Provision of an vehicular access in accordance with Section 2 "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.
- (b) The access shall provide the required 2m x 2m "sight triangle" envelope.

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following:

- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

22. Disposal of stormwater by means of infiltration devices must be carried out in accordance with Section D7.9 of Tweed Shire Councils Development Design and Construction Specification - Stormwater Quality.

[PCC1125]

23. Stormwater

- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.

- (b) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.

- (c) The infiltration rate for sizing infiltration devices shall be 3m per day:

- * As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.

- (d) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
- (e) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
- (f) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
- (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (h) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- (i) All infiltration devices are to be designed to withstand loading from vehicles during construction and operation of the development.
- (j) All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

24. 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]

25. 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]

26. For developments containing less than four attached or detached dwellings having a Building Code classification of 1a, each premises must be connected by means of a separate water service pipe, each of which is connected to an individual Council water meter to allow individual metering. Application for the meters shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

[PCC1175]

27. Prior to the issue of a Construction Certificate, applications An applications shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for the following works (as applicable, but not limited to);

a. Water

- Disconnection of existing water meter and the new meter shall be installed by Council at the Developer's expense.

b. Sewerage

- Disconnection of existing sewerage house connection and the reconnection to the new dwelling.

c. Drainage works, including;

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

[PCC1195]

28. A single dwelling or group of up to three attached or detached dwellings, having a Building Code classification of 1a, must be connected by means of a single water service pipe each of which is connected to an individual Council water meter to allow individual metering. Application for the meters shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

[PCC1305]

29. Stormwater management measures and devices shall be provided in general accordance with Cozens Regan Williams Prove Drawing P.15.42 Sk.2 Issue B, dated October 2012, except where varied by these conditions of consent. Engineering details of the stormwater management system shall be submitted with a Section 68 Stormwater Application for Council approval prior to the issue of a Construction Certificate.

[PCCNS01]

30. Privacy screening is to be provided to Bedroom 1 of Unit 1 to the southern site boundary. Details of this are to be submitted to Council for the written approval of the General Manager or his delegate prior to the issue of a Construction Certificate.

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

31. 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]

32. 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]

33. 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]

34. Residential building work:
- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - * in the name and licence number of the principal contractor, and
 - * the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - * the name of the owner-builder, and
 - * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
 - (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

35. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:
- (a) a standard flushing toilet connected to a public sewer, or
 - (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

36. 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]

37. 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]

38. 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]

39. An application is to be made to Council to disconnect the existing dwelling from Council sewerage system prior to any demolition work commencing.

[PCWNS01]

DURING CONSTRUCTION

40. 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]

41. 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]

42. 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]

43. 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]

44. 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]
45. 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]
46. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake the works.
- [DUR0675]
47. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited.
- [DUR0815]
48. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.
- [DUR0905]
49. 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]
50. 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]
51. 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]
52. 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]

53. 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]
54. All works shall be carried out in accordance with the Demolition Plan prepared by Planit Consulting Pty Ltd and dated December 2012. [DUR1065]
55. 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]
56. 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]
57. Where the existing kerb, footpath or driveway laybacks are to be removed for new driveway laybacks, stormwater connections, pram ramps or for any other reason, the kerb, footpath or driveway laybacks must be sawcut on each side of the work to enable a neat and tidy joint to be constructed. [DUR1905]
58. 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]
59. 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]
60. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste". [DUR2195]
61. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection. [DUR2445]
62. 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]

63. 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]

64. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

[DUR2505]

65. 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]

66. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

[DUR2545]

67. 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]

68. The proponent shall comply with all requirements tabled within any approval issued under Section 68 of the Local Government Act.

[DUR2625]

69. No works are to go beyond two metres below the natural ground surface and no works by which the water table is likely to be lowered beyond two metres below the natural ground surface without the prior written approval of Tweed Shire Council General Manager or his delegate.

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

71. 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]

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

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

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

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

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

[POC0265]

73. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

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

[POC0745]

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

[POC0755]

76. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council, as applicable. Written approval from Councils General Manager or his delegate must be issued prior to the issue of an Occupation Certificate.

[POC0865]

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

[POC0985]

78. 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]

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

[POC1055]

80. 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 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 ET @ \$12150 per ET	\$12150
Sewer Hastings Point:	1 ET @ \$5838 per ET	\$5838

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.

81. Section 94 Contributions

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

Prior to 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:
 - 1.3 Trips @ \$1295 per Trips \$1684
 - (\$1284 base rate + \$11 indexation)
 - S94 Plan No. 4
 - Sector8_4
- (b) Open Space (Casual):
 - 0.75 ET @ \$526 per ET \$395
 - (\$502 base rate + \$24 indexation)
 - S94 Plan No. 5
- (c) Open Space (Structured):
 - 0.75 ET @ \$602 per ET \$452
 - (\$575 base rate + \$27 indexation)
 - S94 Plan No. 5
- (d) Shirewide Library Facilities:
 - 0.75 ET @ \$816 per ET \$612
 - (\$792 base rate + \$24 indexation)
 - S94 Plan No. 11
- (e) Bus Shelters:
 - 0.75 ET @ \$62 per ET \$47
 - (\$60 base rate + \$2 indexation)
 - S94 Plan No. 12
- (f) Eviron Cemetery:
 - 0.75 ET @ \$121 per ET \$91
 - (\$101 base rate + \$20 indexation)
 - S94 Plan No. 13
- (g) Community Facilities (Tweed Coast - North)
 - 0.75 ET @ \$1352 per ET \$1014
 - (\$1305.6 base rate + \$46.4 indexation)
 - S94 Plan No. 15

- (h) Extensions to Council Administration Offices
& Technical Support Facilities
0.75 ET @ \$1812.62 per ET \$1359.47
(\$1759.9 base rate + \$52.72 indexation)
S94 Plan No. 18
- (i) Cycleways:
0.75 ET @ \$460 per ET \$345
(\$447 base rate + \$13 indexation)
S94 Plan No. 22
- (j) Regional Open Space (Casual)
0.75 ET @ \$1064 per ET \$798
(\$1031 base rate + \$33 indexation)
S94 Plan No. 26
- (k) Regional Open Space (Structured):
0.75 ET @ \$3730 per ET \$2798
(\$3619 base rate + \$111 indexation)
S94 Plan No. 26

[POCNS01]

USE

82. 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]
83. 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]
84. 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]

[USE0175]

85. 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]

86. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street.

[USE0435]

Cr K Milne temporarily left the meeting at 09:57 PM.

The Motion was **Carried**

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

Cr K Milne has returned from temporary absence at 10:01 PM

33 [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 ROAD 5900 Wharf Street, Murwillumbah

Cr G Bagnall declared a Significant, Non-Pecuniary Interest in Item 33. The nature of the interest is that Cr G Bagnall is the proprietor of a food business in Murwillumbah. Cr G Bagnall will manage the Interest by vacating the Chamber and taking no part in the discussion or voting on the matter.

10

Cr M Armstrong
Cr K Milne

PROPOSED 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 refused for the following reasons:

1. The development would result in a security and public safety risk and would therefore be contrary to Clause 4, Clause 8 and Clause 11 of the Tweed Local Environmental Plan 2000.
2. The development would detract from the heritage significance of the host building and the character and amenity of the Murwillumbah Town Centre and would therefore be contrary to Clause 4, Clause 8, and Clause 11 of the Tweed Local Environmental Plan 2000.
3. The development would not protect or enhance the public domain and would therefore be contrary to the Murwillumbah Town Centre Development Control Plan - B22.

4. The development would detract from the heritage significance of the Murwillumbah Main Street Conservation Area and would therefore be contrary to Clause 5.10 of the Tweed Draft Local Environmental Plan 2012.

11

AMENDMENT

Cr K Milne
Cr P Youngblutt

RESOLVED that this item be deferred for a Workshop.

The Amendment was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr G Bagnall

The Amendment on becoming the Motion was **Carried** - (Minute No 392 refers)

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr G Bagnall

Cr G Bagnall has returned from temporary absence at 10:03 PM

12

Cr B Longland
Cr M Armstrong

RESOLVED that the meeting continue beyond 10:00 PM to complete the agenda.

The Motion was **Carried**

FOR VOTE - Unanimous

Cr B Longland temporarily left the meeting at 10:03 PM. Cr M Armstrong chaired the meeting.

- 34 [PR-CM] Development Application DA12/0605 for a Two Lot Subdivision at Lot 1 DP 775668 No. 217 McAllisters Road, Bilambil Heights**

13

Cr G Bagnall
Cr K Milne

RESOLVED that Development Application DA12/0605 for a two lot subdivision at Lot 1 DP 775668 No. 217 McAllisters Road, Bilambil Heights be approved subject to the following conditions:

"DEFERRED COMMENCEMENT"

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within twelve (12) months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 95 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

SCHEDULE "A"

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 95 of the Regulations as amended.

1. Prior to any works being undertaken at the site, a Detailed Site Investigation that includes sampling of the site and a Remediation Action Plan (where required) shall be prepared by a qualified environmental consultant with experience in the assessment of contaminated land in accordance with relevant NSW Office of Environment & Heritage's Contaminated Land Guidelines and submitted to Council's General Manager or delegate for assessment and approval.

SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan No 1 of 1 prepared by Landsurv Pty Ltd and dated 13/12/12, 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. Stormwater Management of the subdivision must be in accordance with Council's *Development Design Specification D7 - Stormwater Quality and* should incorporate water sensitive design principles where possible.
[GENNS01]
5. Prior to the release of the Construction Certificate and/or prior to commencement of any other subdivision works, the applicant is to undertake any remediation works recommended by the Remediation Action Plan required for the Deferred Commencement Condition. On completion of any required remediation works and prior

to any further works being undertaken at the site, a Validation Report prepared by a suitably qualified environmental consultant with experience in the assessment of contaminated land shall be submitted to Council's General Manager or their Delegate for review and approval. Such Validation Report shall contain a statement advising that the land is suitable for the proposed use.

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works as set out in Council's fees and charges at the time of payment.

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

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

[PCC0275]

7. 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]

8. A Traffic Control Plan in accordance with AS1742 and the latest version of the RTA publication "Traffic Control at Work Sites" shall be prepared by an RTA accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.

[PCC0865]

9. Prior to the issue of a Construction Certificate for Civil Works, the following detail in accordance with Council's Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.
- (a) copies of compliance certificates relied upon
 - (b) four copies of detailed engineering plans and specifications, *prepared in accordance with Development Design Specification D13 - particularly Section D13.09*. The detailed plans shall include (but are not limited) to the following, unless approved otherwise by Council:
 - earthworks
 - roadworks/furnishings
 - (c) Upgrade of McAllisters Road for the full frontage of the subject site to provide a 7.5m width bitumen sealed road with kerb and gutter on the development's side only, on an alignment endorsed by Council.
 - (d) Construction of formed vehicular access to each lot to provide complying, sealed accesses in accordance with Council's DCP Section A2 - "*Site Access and Parking Code*" and Council's "*Driveway Access to Property - Part 1* " Design Specification June 2004.

- stormwater drainage
 - water supply works
- (e) Extension and upgrade (as applicable) of Council's existing reticulation main to deliver appropriate, reticulated potable water and a peak hour rate flow of minimum 20m head to each allotment.
- (f) Disconnection of any existing water meter not at the property boundary and private water pipe along McAllisters Road to the property.
- (g) New house connections to service the proposed allotments.
- sewerage works
- (h) Construction of a pressure sewer system from the existing gravity sewer near SPS2035, to service each allotment. All pressure mains shall be located in the road reserve with the Developer providing a Boundary Kit for connection for each lot to be serviced by the pressure sewer within each associated lot, in accordance with Council's standard specifications and drawings. The location of connection or the pressure main to sewerage shall be determined in consultation with Council during preparation of the engineering design plans so as to minimise the length of rising main so as to reduce any potential odour and septicity issues.
- (i) The associated pressure mains will become the responsibility of Council. The main must be sized so as to permit neighbouring properties to be connected in the future.
- landscaping works
 - sedimentation and erosion management plans
 - location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure), *as well as details and locations of any significant electrical servicing infrastructure - such as transformers and substations*

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]

10. 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]

11. Each premises must be connected by means of a separate water service pipe, each of which is connected to an individual Council water meter (when improved by a dwelling) to allow individual metering. Application for the meters shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

[PCC1175]

12. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works (including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works), prior to the issue of a Construction Certificate.

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

The Legal Point Of Discharge for stormwater discharge from both allotments is the kerb and gutter drainage network to be constructed as part of this development application in McAllisters Road.

[PCC1195]

PRIOR TO COMMENCEMENT OF WORK

13. 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]

14. Prior to the commencement of works, the applicant shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with either:-

- (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
- (b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
- (c) WorkCover Regulations 2000.

[PCW0025]

15. Civil work in accordance with a development consent must not be commenced until:
- (a) a Construction Certificate for the civil work has been issued in accordance with Councils Development Construction Specification C101 by:
 - (i) the consent authority, or
 - (ii) an accredited certifier, and
 - (b) the person having the benefit of the development consent:
 - (i) has appointed a principal certifying authority,
 - (ii) has appointed a Subdivision Works Accredited Certifier (SWAC) to certify the compliance of the completed works. The SWAC must be accredited in accordance with Tweed Shire Council DCP Part A5 - Subdivision Manual, Appendix C with accreditation in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the SWAC shall possess accreditation in the following categories:

C4: Accredited Certifier - Stormwater management facilities construction compliance

C6: Accredited Certifier - Subdivision road and drainage construction compliance

The SWAC shall provide documentary evidence to Council demonstrating current accreditation with the Building Professionals Board prior to commencement of works, and

- (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment,
 - (iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and
- (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the civil work.

Note: For subdivisions creating 5 new allotments or less, OR the value of new public infrastructure is less than \$30,000, then the SWAC may be substituted for an Institute of Engineers Australia Chartered Professional Engineer (Civil College) with National Professional Engineers Register (NPER) registration.

[PCW0815]

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

[PCW0835]

17. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area (where required) to the satisfaction of the Principal Certifying Authority. These measures are to be in accordance with the approved erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

[PCW0985]

DURING CONSTRUCTION

18. 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]

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

20. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.
- $L_{Aeq, 15 \text{ min}}$ noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
- B. Long term period - the duration.
- $L_{Aeq, 15 \text{ min}}$ noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
- [DUR0215]
21. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited.
- [DUR0815]
22. 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]
23. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.
- [DUR0995]
24. 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]
25. 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]
26. Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval and demonstrating.
- (a) That the pavement has been designed in accordance with Tweed Shire Councils Development Design Specification, D2.
- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.

- (c) That site fill areas have been compacted to the specified standard.
- (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR1805]

27. During the relevant stages of road construction, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface demonstrating:

- (a) That the pavement layers have been compacted in accordance with Councils Development Design and Construction Specifications.
- (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.

[DUR1825]

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

[DUR1845]

29. 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) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal
- (g) Final Practical Inspection - on maintenance
- (h) 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 Practical 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".

The fee for the abovementioned inspections shall be invoiced upon completion of all civil works, and subject to the submission of an application for a 'Subdivision Works Compliance Certificate'.

[DUR1895]

30. 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]

31. 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]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

32. 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]

33. 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.

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 DSP3:	2.4 ET @ \$12150 per ET	\$29160
Sewer Banora:	2 ET @ \$5838 per ET	\$11676

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]

34. 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.

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 @ \$2860 per Trips	\$18590
(\$2836 base rate + \$24 indexation)	

S94 Plan No. 4

Sector4_4

(b) Open Space (Casual):

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

S94 Plan No. 5

- (c) Open Space (Structured):
 1 ET @ \$602 per ET \$602
 (\$575 base rate + \$27 indexation)
 S94 Plan No. 5
- (d) Shirewide Library Facilities:
 1 ET @ \$816 per ET \$816
 (\$792 base rate + \$24 indexation)
 S94 Plan No. 11
- (e) Bus Shelters:
 1 ET @ \$62 per ET \$62
 (\$60 base rate + \$2 indexation)
 S94 Plan No. 12
- (f) Eviron Cemetery:
 1 ET @ \$121 per ET \$121
 (\$101 base rate + \$20 indexation)
 S94 Plan No. 13
- (g) Community Facilities (Tweed Coast - North)
 1 ET @ \$1352 per ET \$1352
 (\$1305.6 base rate + \$46.4 indexation)
 S94 Plan No. 15
- (h) Extensions to Council Administration Offices
 & Technical Support Facilities
 1 ET @ \$1812.62 per ET \$1812.62
 (\$1759.9 base rate + \$52.72 indexation)
 S94 Plan No. 18

(i) Cycleways:

1 ET @ \$460 per ET \$460

(\$447 base rate + \$13 indexation)

S94 Plan No. 22

(j) Regional Open Space (Casual)

1 ET @ \$1064 per ET \$1064

(\$1031 base rate + \$33 indexation)

S94 Plan No. 26

(k) Regional Open Space (Structured):

1 ET @ \$3730 per ET \$3730

(\$3619 base rate + \$111 indexation)

S94 Plan No. 26

[POC0395/PSC0175]

35. Prior to the issue of a Subdivision Certificate a Defect Liability Bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

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

[PSC0215]

36. 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]

37. Prior to the issue of a Subdivision Certificate, Work as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design Specification, D13 - Engineering Plans.

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

- (a) all drainage lines, sewer lines, services and structures are wholly contained within the relevant easement created by the subdivision;
- (b) the plans accurately reflect the Work as Executed.

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

[PSC0735]

38. 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]

39. Prior to the issue of the Subdivision Certificate, certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning And Design (BPAD) certified practitioner, must be submitted to the PCA, confirming that the subject development complies with the Rural Fire Service's General Terms of Approval imposed under Section 100B of the Rural Fires Act 1997 on the consent.

[PSC0830]

40. 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, water supply and drainage over ALL public services/infrastructure on private property.
- (b) Positive Covenant over the subject land (as applicable) to ensure that the required provisions of the "Planning for Bushfire Protection 2006 "Guidelines and the General Terms of Approval of the Consent as imposed under Section 100B of the Rural Fires Act 1997 are enforced in perpetuity.
- (c) Positive Covenant over the subject land for the installation and maintenance of single property pump stations.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating a Right Of Carriageway or Easement shall make provision for maintenance of the Right Of Carriageway or 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 (as applicable).

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.

[PSC0835]

41. 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.

[PSC0845]

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

[PSC0855]

43. 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]

44. 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 - Roads
 - (b) Compliance Certificate - Water Reticulation
 - (c) Compliance Certificate - Sewerage Reticulation
 - (d) Compliance Certificate - Drainage

Note:

1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual and Councils Development Design and Construction Specifications.
2. The 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]

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

[PSC0925]

46. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of any stormwater pipes and gravity sewerage systems installed and to be dedicated to Council including joints and junctions will be required to demonstrate that the standard of the infrastructure is acceptable to Council.

Any defects identified by the inspection are to be repaired in accordance with Councils Development Design and Construction Specification.

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[PSC1065]

47. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation (including household connections) shall be provided to all lots within the subdivision in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications and the Construction Certificate approval.

Fire Hydrants spacing, sizing and pressures shall comply with Council's DCP - Section A5 - Subdivision Manual, associated Development Design and Construction Specifications and AS2419.1-2005.

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.

[PSC1115]

48. A pressure sewer system shall be available to service those lots that cannot be serviced by conventional gravity sewers.

Only those lots which are demonstrated to the satisfaction of the Director Community and Natural Resources not to be serviceable by conventional gravity sewers may be served by a pressure sewer system.

Prior to the issue of the Subdivision Certificate, for each lot serviced by the pressure sewer system, a capital contribution of \$14,800 shall be paid by the Developer to Council for the installation of individual pressure sewer pump stations at a suitable location within each lot at the time of construction of the dwelling on that lot.

[PSC1135]

49. A Positive Covenant in relation to each lot to be sewered by a pressure sewer system shall be created pursuant to Section 88B of the Conveyancing Act to provide Tweed Shire Council with rights to construct, install and maintain the pressure sewerage infrastructure in accordance with the following terms:

TERMS OF PUBLIC POSITIVE COVENANT

1. Pressure sewerage reticulation infrastructure is to be constructed within the land referred to herein and such infrastructure will comprise a pump station, valve pit, control panel and associated pipelines excluding gravity house connections and plumbing.
2. Such infrastructure is to be supplied by Tweed Shire Council at commencement of construction of a dwelling on the land referred to herein.
3. All costs in relation to the installation of the pressure sewer reticulation infrastructure within the land referred to herein will be borne by Tweed Shire Council.
4. The control panel for the pumping station is to be wired into the household switchboard by a registered electrician and all electricity to operate the control panel and pump station shall be supplied from the household switchboard. All costs in relation to the running of the pressure sewerage reticulation are to be borne by the registered proprietor.
5. The pressure sewer infrastructure will at all times remain the property of Tweed Shire Council to be inspected, serviced, repaired and maintained in good working order only by Tweed Shire Council.
6. Tweed Shire Council shall have the right to enter upon the land referred to herein with or without equipment, at all reasonable times to inspect, construct, repair, service and maintain in good working order all pressure sewerage reticulation infrastructure in or upon the said land pursuant to "Power of Entry" provisions under sections 191 and 191A of the NSW Local Government Act, 1993. This right to enter is restricted to the land in which the pressure sewerage

infrastructure is placed for the time being and includes any points of egress or ingress to or from the said land.

7. The registered proprietor of the land referred to herein shall not construct any type of development, including external buildings, swimming pools or permanent structures which may interfere with the sewerage reticulation infrastructure, or impede access to any part of the sewerage reticulation infrastructure for the purposes of repair, maintenance and service.
 8. If at any time it becomes necessary to relocate any part of the sewerage reticulation infrastructure for the purposes of construction of external buildings, swimming pools or building extensions and/or modifications Tweed Shire Council will not object to the relocation of the existing sewer pump station or associated pipeline providing that the registered proprietor makes the necessary application to Tweed Shire Council as the consent authority to modify the existing sewerage reticulation infrastructure and upon the registered proprietor obtaining development consent to do so. The registered proprietor will bear all costs in relation to the application and the re-location which is to be carried out by Tweed Shire Council.
 9. The registered proprietor shall be responsible for notifying Tweed Shire Council when maintenance, repair, relocation or service is necessary on the sewerage reticulation infrastructure.
 10. Should any part of the sewerage reticulation infrastructure be damaged by the registered proprietor or by any person who is a servant, workman, tenant, invitee, employee, or agent of the registered proprietor Tweed Shire Council will repair the damage at the cost of the registered proprietor.
 11. The registered proprietor shall indemnify Tweed Shire Council and any adjoining landowners against any damage and injury to their land, property or person arising from the failure of any component of the sewerage reticulation infrastructure due to the negligent use or misuse of the sewerage reticulation system by the registered proprietor or any person who is a servant, workman, tenant, invitee, employee or agent of the registered proprietor.
 12. Tweed Shire Council shall indemnify the registered proprietor against all damage and injury to property and person (including any damage to the land referred to herein and any land adjacent to the land referred to herein) arising from the failure of any component of the sewerage reticulation infrastructure and its construction, inspection, repair, service and maintenance and or in entering upon and occupying the subject property for such purposes.
 13. Any reference to Tweed Shire Council, excepting as consent authority, means its employees, agents, contractors, servants.
- [PSC1145]
50. 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 all allotments has been completed.
- [PSC1165]
51. Electricity
 - (a) The production of written evidence from the local electricity supply authority certifying that reticulation and energising of underground electricity has been provided adjacent to the front boundary of each allotment; and

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.

[PSC1185]

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

1. The development proposal is to comply with the subdivision layout identified on the drawing prepared by Landsurv Pty Ltd numbered 37979 as submitted in Appendix A of Planit Consulting "Bushfire Safety Authority" report dated December, 2012.
2. At the issue of subdivision certificate and in perpetuity, the land surrounding the existing dwelling(s) on proposed Lot 12, 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'.
3. Any new water, electricity and gas services are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
4. Property access roads shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr B Longland

35 [PR-CM] Development Application DA13/0065 for Dwelling Additions Including Creation of Second Storey and Detached Double Garage with Carport with SEPP No.1 Objection at Lot 3 DP 712922; No. 13 Dalton Street, Terranora

14

Cr P Youngblutt
Cr W Polglase

RESOLVED that:

- A. State Environmental Planning Policy No. 1 objection to Clause 24 of Tweed Local Environmental Plan 2000 regarding setbacks to designated roads be supported and the concurrence of the Director-General of the Department of Planning be assumed.
- B. Development Application DA13/0065 for construction of a first floor addition and roofed verandahs to an existing dwelling house and detached double garage with carport at Lot 3 DP 712922 No. 13 Dalton Crescent, Terranora 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 4625- cover sheet & sheets 4-10 & 17 prepared by Stuart Osman Building Designs and dated 26/03/13, 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]

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 footings to the dwelling additions and floor slab to the garage/carport 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]

6. 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]

7. Prior to the issue of a construction certificate for the dwelling house additions the Principal Certifying Authority shall be provided with written confirmation from a practising Structural Engineer that the existing dwelling house is structurally adequate to support the proposed first floor additions.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0005]

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

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

[PCW0215]

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

[PCW0225]

11. Residential building work:

- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
- * in the name and licence number of the principal contractor, and
 - * the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
- * the name of the owner-builder, and
 - * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

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

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

[PCW0245]

13. 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]

14. 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

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

[DUR0005]
16. Construction 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. 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]
18. 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]
19. 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]
20. 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]
21. 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]
22. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan Part A1 to the satisfaction of the Principal Certifying Authority.
Please note timber retaining walls are not permitted.

[DUR0835]

23. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.

[DUR0905]

24. All work associated with this approval is to be carried out so as not to impact on 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]

25. No portion of the structure may be erected over the existing easements along the eastern property boundary.

[DUR1945]

26. 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]

27. 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]

28. 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]

29. 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

30. 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]

31. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

32. 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]

33. Prior to the issue of an occupation certificate the existing dwelling shall be provided with smoke detectors in accordance with the provisions of part 3.7.2 of the Building Code of Australia and which comply with the provisions of Australian Standard AS 3786.

[POCNS01]

USE

34. The garage is not to be used for any habitable, commercial or industrial purpose without prior approval of Council.

[USE0455]

Cr B Longland has returned from temporary absence at 10:06 PM and resumed the Chair.

Cr M Armstrong temporarily left the meeting at 10:07 PM.

Cr M Armstrong has returned from temporary absence at 10:21 PM

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

- 36 [PR-CM] Development Application DA12/0498 for the Demolition of Existing Dwelling and Construction of a Three-Storey Dwelling at Lot 1 DP 214686 No. 4 Marine Parade, Kingscliff**

Cr C Byrne declared a Non-Significant, Non-Pecuniary Interest in Item 36. The nature of the interest is that Cr Byrne's neighbour has an involvement in the development. Cr C Byrne will manage the Interest by vacating the Chamber and taking no part in the discussion or voting on the matter.

15

Cr K Milne
Cr G Bagnall

RESOLVED that Development Application DA12/0498 for the demolition of existing dwelling and construction of a three-storey dwelling at Lot 1 DP 214686; No. 4 Marine Parade, Kingscliff be refused for the following reasons:

1. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated that compliance with the development standard as being unreasonable or unnecessary in accordance with State Environmental Planning Policy No. 1 – Development Standards:
 - The impact of the additional storey incorporating a roof top deck has not been adequately justified.
2. Pursuant to Section 79C(1)(b) the development proposal has not demonstrated acceptable impacts on the built environment:
 - The development is considered to have negative impact on the amenity of the adjoining property to the southwest.
3. Pursuant to Section 79C(1)(a)(iii) the development has not demonstrated compliance with Tweed Shire Council Development Control Plan 2008 Section A1 in particular:
 - The development proposal exceeds the nine (9) metre height limit.

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

AGAINST VOTE - Cr W Polglase

ABSENT. DID NOT VOTE - Cr C Byrne

Cr P Youngblutt temporarily left the meeting at 10:23 PM.

