

Mayor: Cr B Longland (Mayor)

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



TWEED
SHIRE COUNCIL

Minutes

Planning and Regulation Reports

Ordinary Council Meeting

Tuesday 21 August 2012

held at Murwillumbah Cultural and Civic Centre
commencing at 10.30am

COUNCIL'S CHARTER

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

Tweed Shire Council has the following charter:

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

The Meeting commenced at 10.30am.

IN ATTENDANCE

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

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

ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

506

**Cr K Milne
Cr J van Lieshout**

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

The Motion was **Carried**

FOR VOTE - Unanimous

9 [PR-CM] Community Based Heritage Study

507

**Cr J van Lieshout
Cr P Youngblutt**

RESOLVED that:

1. Council endorses the *Community Based Heritage Plan August 2012*, which includes a list of heritage items and areas for inclusion (Sections 5 and 6), Management Plan recommendations (Section 9 (with the exception of

recommendation 9.4 and 9.5)), and the supporting documents, *Guide for Heritage Owners* (Attachment B) and *Guide for Council Staff* (Attachment C), as amended and as outlined in this report and provided in Attachment 3;

2. Due to the absence of an allocation in Council's 2012/2013 Operational Plan and Budget, the commencement of Management Plan recommendations 9.4 – *Implementation of a Community Heritage Grants Scheme* and 9.5 – *Appointment of a Council Heritage Advisor* be deferred pending a further report for the incoming Council at the November Council Meeting;
3. In accordance with Sections 55 and 56 of the Environmental Planning and Assessment Act, 1979 an amendment to the Tweed Local Environmental Plan 2000 to list the items and areas within Schedule 2 (or the equivalent within the draft Tweed Local Environmental Plan under the provisions of the Standard Instruments (Local Environmental Plans Order) 2006 be prepared and referred to the Minister for Planning and Infrastructure for a Gateway Determination; and
4. A further report on the Significant Tree Register linked to the Tree Preservation Development Control Plan, under the requirements of Clause 5.9 of the Standard Instrument (Local Environmental Plans) Order 2006 be submitted to Council, with the view for public exhibition and detailing a preferred process for the nomination and listing of significant trees.

The Motion was **Carried**

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

10 [PR-CM] Development Application DA03/0476.02 for an Amendment to Development Consent DA03/0476 for the Establishment of an Art Gallery/Coffee Shop to Include a Refreshment Room & Extend Trading Hours on Saturdays including the Option of Live Music at Lot 2 DP 575934 No. 17 Bambery Street, Fingal Head

Cr K Milne declared a pecuniary interest in this item, left the Chamber at 10:52 AM and took no part in the discussion or voting. The nature of the interest is that Cr Milne is the sister of the applicant.

508

Cr J van Lieshout
Cr K Skinner

RESOLVED that Council defers Development Application DA03/0476.02 for an amendment to Development Consent DA03/0476 to provide the applicant with the opportunity to submit further details in response to Council's current compliance concerns, and that the officers submit a further report to Council's October meeting.

The Motion was **Carried**

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

Cr K Milne has returned from temporary absence at 11:00 AM

11 [PR-CM] Development Application DA12/0067 for a Three Lot Subdivision at Lot 8 DP 635706 No. 149 Carramar Drive, Tweed Heads West

509

Cr D Holdom
Cr P Youngblutt

RESOLVED that Development Application DA12/0067 for a three lot subdivision at Lot 8 DP 635706 No. 149 Carramar Drive, Tweed Heads West be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and:
 - Sheet 1 of 1 Ref: 2269PR/3 (Plan of proposed subdivision of Lot 8 in DP635706 at Carramar Drive Tweed Heads West) prepared by N.C. White & Associates and dated 9 March 2012

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. In order to preserve the natural habitat of the site and surrounding areas, no occupant, tenant, lessee or registered proprietor of additional allotments created by this development consent or any part thereof may own or allow to remain on the site or any part thereof any dog (excluding any "assistance animal" as defined under the Companion Animals Act 1998 (NSW) and referred to in Section 9 of the Disability Discrimination Act, 1992 (Cth)).

Note: "assistance animal" means an animal (Disability discrimination-guide dogs, hearing assistance dogs and trained animals) of the Disability Discrimination Act 1992 of the Commonwealth, but does not include a working dog. Note: That section refers to a guide dog, a dog trained to assist a person in activities where hearing is required and any other animal trained to assist a person to alleviate the effect of a disability.

[GENNS01]

5. No approval is granted for the removal of any Koala food or Koala use trees, being: Forest Red Gum (*Eucalyptus tereticornis*), Tallowwood (*Eucalyptus*

microcorys), Swamp Mahogany (*Eucalyptus robusta*), Small-fruited Grey Gum (*Eucalyptus propinqua*), Blackbutt (*Eucalyptus pilularis*), Brush Box (*Lophostemon confertus*), Pink Bloodwood (*Corymbia intermedia*) and Grey Ironbark (*Eucalyptus siderophloia*). These trees must be protected throughout the development site during construction works and operational phases of the development.

[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 (public infrastructure - insert / delete as applicable) 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 final Subdivision/Occupation 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. All fill is to be graded at a minimum of 1% so that it 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 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]

9. 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]

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

Services

- (a) Water and services are to be provided generally in accordance with Sketch no. 2 prepared by Cardno titled 'Water and Sewer service plan' dated 13 April 2012.
- (b) The existing water service for the existing dwelling on proposed Lot 3 is to be reconnected to the new main that will service proposed Lots 1 & 2. Details are to be shown on the application for a Construction Certificate.
- (c) The existing sewer pump station that currently services the existing dwelling on proposed Lot 3 is to be connected to the proposed new pressure sewer main, with a property boundary assembly. These details are to be shown on the application for a Construction Certificate.

[PCC0875]

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

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

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

[PCC0985]

12. Permanent stormwater quality treatment shall be provided in accordance with the following:

- (a) The Construction Certificate Application shall detail stormwater management for the occupational or use stage of the development in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.
- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management.

[PCC1105]

13. Erosion and Sediment Control shall be provided in accordance with the following:

- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

PRIOR TO COMMENCEMENT OF WORK

14. 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]

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]

DURING CONSTRUCTION

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

[DUR0005]

17. 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]

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

[DUR0815]

19. 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]

20. 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]

21. 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]

22. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights,

barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

23. 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]

24. 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:

Water Reticulation, Sewer Reticulation, Drainage

Excavation

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

25. 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]

26. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good

any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

27. 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]

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

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

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

Water DSP3: 2 ET @ \$12150 per ET \$24,300

Sewer Banora: 2 ET @ \$5838 per ET \$11,676

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

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

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

[PSC0165]

29. Section 94 Contributions

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

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

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

These charges include indexation provided for in the S94 Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in

accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

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

- (a) Tweed Road Contribution Plan:
13 Trips @ \$2860 per Trips \$25,614.02*
(\$2836 base rate + \$24 indexation)
S94 Plan No. 4
Sector4_4
- (b) Open Space (Casual):
2 ET @ \$526 per ET \$725.88*
(\$502 base rate + \$24 indexation)
S94 Plan No. 5
- (c) Open Space (Structured):
2 ET @ \$602 per ET \$830.76*
(\$575 base rate + \$27 indexation)
S94 Plan No. 5
- (d) Shirewide Library Facilities:
2 ET @ \$816 per ET \$1,126.08*
(\$792 base rate + \$24 indexation)
S94 Plan No. 11
- (e) Bus Shelters:
2 ET @ \$62 per ET \$85.56*
(\$60 base rate + \$2 indexation)
S94 Plan No. 12
- (f) Community Facilities (Tweed Coast - North)
2 ET @ \$1352 per ET \$1,865.76*
(\$1305.6 base rate + \$46.4 indexation)
S94 Plan No. 15
- (g) Extensions to Council Administration Offices
& Technical Support Facilities
2 ET @ \$1812.62 per ET \$2,501.42*
(\$1759.9 base rate + \$52.72 indexation)
S94 Plan No. 18
- (h) Cycleways:
2 ET @ \$460 per ET \$634.80*

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

S94 Plan No. 22

- (i) Regional Open Space (Casual)

2 ET @ \$1064 per ET \$1,468.32*

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

S94 Plan No. 26

- (j) Regional Open Space (Structured):

2 ET @ \$3730 per ET \$5,147.40*

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

S94 Plan No. 26

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

[PSC0175]

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

[PSC0725]

31. Prior to the issue of a Subdivision Certificate, 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]

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

[PSC0825]

33. 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]

34. 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 advising; the future lot owner/s for proposed Lots 1 & 2 shall install a private sewage ejection pump station to service the lot with reticulated sewer. The private sewage ejection pump station is to be installed to the boundary assembly kit prior to the issue of an Occupation Certificate or Interim Occupation Certificate.

Approval to Install the private sewage ejection pump station under Section 68 of The Local Government Act 1993 must be obtained from Tweed Shire Council prior to installation and prior to the issue of an Occupation Certificate or Interim Occupation Certificate.

Approval to Operate the private sewage ejection pump station under Section 68 of The Local Government Act 1993 must be obtained from Tweed Shire Council following installation and prior to the issue of an Occupation Certificate or Interim Occupation Certificate.

Maintenance of the private sewage ejection pump station is the owners responsibility and is to be managed by the owner in accordance with the conditions of Approval to Operate.

- (d) A restriction on the title of proposed lots 1 and 2 preventing dogs (excluding assistance dogs) from being kept on the lots.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the Community Land Development Act, Strata Titles Act, Conveyancing Act, or other applicable legislation.

[PSC0835]

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

[PSC0855]

36. 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]

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

- (a) Compliance Certificate - Water Reticulation
- (b) Compliance Certificate - Sewerage Reticulation
- (c) 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]

38. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation 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.

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]

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

[PSC1165]

40. Electricity
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- (a) The production of written evidence from the local electricity supply authority certifying that reticulation and energising of underground electricity (residential and rural residential) 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]

41. As a minimum the following restrictions as to user under Section 88B of the Conveyancing Act are to be created to Council's satisfaction:

- (a) Restriction as to user regarding no dogs or cats. Burden: Proposed (new lot(s) created on the subject site). Benefit: Tweed Shire Council.

[PSCNS01]

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 N.C. White & Associates numbered 2269PR/3, dated 9 March 2012.
2. At the issue of subdivision certificate and in perpetuity the entire area of proposed Lots 1 and 2 shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
3. At the issue of subdivision certificate and in perpetuity as asset protection zone of 20m or to the boundary where less than 20m (as approved under conditions of consent for DA03/0830) shall be established and managed around the existing dwelling on proposed Lot 3 as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
4. A restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed over part of proposed Lot 3 requiring the provision of an asset protection zone (APZ) to the south-east of proposed Lot 2 for a distance of 21m from the potential building envelope on proposed Lot 2, as identified on the drawing prepared by Parameter Designs, numbered Sheet 1A 1257F (Amendment 3), dated 8 August 2011 (approved under DA11/0030). The APZ shall be managed 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'.
5. For asset protection zones (APZ) on slopes greater than 18 degrees, the property shall be landscaped or managed (eg. terracing) with suitable access being provided to the APZ to ensure the ongoing maintenance of the area.

6. Any extension of electricity supply to service the proposed lots shall comply with Section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
7. Any gas connection to the existing dwelling(s) shall comply with the following requirements:
 - a) Reticulated or bottled gas is to be installed and maintained in accordance with Australian Standard AS/NZS 1596:2008: 'The storage and handling of LP gas' and the requirements of relevant authorities. Metal piping is to be used.
 - b) All fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and be shielded on the hazard side of the installation.
 - c) Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal.
 - d) Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.
8. Any reticulated water supply to the proposed Lots shall comply with Section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

The Motion was **Carried**

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

12 [PR-CM] Development Application DA12/0132 for the Use of an Existing Shed as a Roadside Stall and Associated Signage at Lot 2 DP 739630 No. 4 Raven Place, Clothiers Creek

510

Cr P Youngblutt
Cr K Milne

RESOLVED that:

1. State Environmental Planning Policy No. 1 objection to Clause 24 of the Tweed Local Environmental Plan 2000 regarding setbacks to designated roads be supported and the concurrence of the Director-General of the Department of Planning and Infrastructure be assumed.
2. Development Application DA12/0132 for the use of an existing shed as a roadside stall and associated signage at Lot 2 DP 739630 No. 4 Raven Place, Clothiers Creek be approved subject to the following conditions:

GENERAL

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

- Site Plan, prepared by Darryl Anderson Consulting and dated March 2012, as amended in red;
- Floor Plan, prepared by Darryl Anderson Consulting and dated March 2012, as amended in red;
- Proposed Signage (Sheet 1 & 2), prepared by Darryl Anderson Consulting and dated July 2012, as amended in red;
- Signage Location Plan, prepared by Darryl Anderson Consulting and dated June 2012, as amended in red;

except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

3. 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 development shall provide an all weather car parking facility capable of catering for a minimum of 5 vehicles in accordance with Council's Development Control Plan Section A2 - *Site Access and Parking Code*.

[GENNS01]

6. Appropriate erosion and sediment control shall be provided in accordance with Tweed Shire Council Development Design Specification D7 - Stormwater Quality and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[GENNS02]

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

8. The advertising signage is approved for a maximum of 15 years in accordance with the provisions of State Environmental Planning Policy 64 - Advertising and Signage.

9. The signage hereby approved shall not include any internal illumination, unless otherwise approved in writing by the General Manager or delegated officer.

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

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

[GENNS03]

PRIOR TO COMMENCEMENT OF WORK

12. Prior to commencement of work on the site, all erosion and sedimentation control measures are to be installed and operational to the satisfaction of the General Manager or his delegate.

[PCW0985]

13. Prior to commencement of work, application on shall be made to and approved by Tweed Shire Council under Section 138 of the Roads Act 1993 for the provision of a sealed driveway access, from the edge of the existing bitumen seal of Raven Place to the property boundary, in accordance with Council's Development Control Plan Section A2 - *Site Access and Parking Code* and Council's "*Driveway Access to Property - Part 1* " Design Specification June 2004.

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

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

[PCWNS01]

DURING CONSTRUCTION

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

[DUR0005]

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

16. 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]

17. 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]

18. 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]

19. 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]

20. Any damage caused to public infrastructure during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to any use of the roadside stall.

[DUR1875]

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

[DUR1885]

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

[POC0625]

USE

23. 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]

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

* 8:30am to 5:30pm

[USE0185]

25. Prior to use of the car park, 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.

[USENS01]

26. Prior to use of the roadside stall, Council must undertake a final inspection of the works and be satisfied that all conditions of consent have been complied with.

[USENS02]

27. No containers, drums or other mobile equipment used in association with the business is to be stored outside of the roadside stall. Movement of such equipment into a watercourse may be considered as 'water pollution' under the *Protection of the Environment Operations Act 1997*.
28. Stormwater collected from the roof of any structures shall not be directed towards a watercourse. Discharge of piped stormwater has the potential to cause scouring, which may result in sedimentation and bank instability.
29. Only whole primary produced food products produced on the property are to be sold at the roadside stall. Food preparation for the purposes of sale is not permitted at the roadside stall. Food preparation includes the making of beverages and the cutting-and-wrapping of foods.
30. Staff at the roadside stall are to have access to toilet and hand washing facilities on the property at all times.
31. Any premises used for the storage and sale of food are to comply with the *Food Act 2003*, FSANZ Food Safety Standards and other requirements of Council's authorised officer.

[USENS03]

NSW RURAL FIRE SERVICE CONDITIONS

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the commencement of building works and in perpetuity the property around the building as indicated below, 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':
 - north and east to the property boundary;
 - south for a distance of 10 metres; and
 - west to the bank of the adjacent watercourse.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

2. In recognition that no reticulated water supply is available to the development, a total of 20,000 litres fire fighting water supply shall be provided for fire fighting purposes. The fire fighting water supply shall be installed and maintained in the following manner:

- a) Fire fighting water supply tank(s) shall be located not less than 5 metres and not more than 20 metres from the approved structure.
- b) A hardened ground surface for fire fighting truck access is to be constructed up to and within 4 metres of the fire fighting water supply.
- c) New above ground fire fighting water supply storage's are to be manufactured using non combustible material (concrete, metal, etc). Where existing fire fighting water supply storage's are constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials, they shall be shielded from the impact of radiant heat and direct flame contact.
- d) Non combustible materials (concrete, metal, etc) will only be used to elevate or raise fire fighting water supply tank(s) above the natural ground level.
- e) A 65mm metal Storz outlet with a gate or ball valve shall be fitted to any fire fighting water supply tank(s) and accessible for a fire fighting truck. The Storz outlet fitting shall not be located facing the hazard or the approved structure.
- f) The gate or ball valve, pipes and tank penetration are adequate for full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material.
- g) All associated fittings to the fire fighting water supply tank(s) shall be non-combustible.
- h) Any below ground fire fighting water supply tank(s) constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials shall be shielded from the impact of radiant heat and direct flame contact.
- i) Any fire fighting water supply tank(s) located below ground shall be clearly delineated to prevent vehicles being driven over the tank.
- j) All water supplies for fire fighting purposes shall be clearly signposted as a fire fighting water supply.
- k) Below ground fire fighting water supply tank(s) shall have an access hole measuring a minimum 200mm x 200mm to allow fire fighting trucks to access water direct from the tank.
- l) Fire fighting water supply tank(s) and associated fittings, located within 60 metres of a bushfire hazard and on the hazard side of an approved building, shall be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for fire fighters.
- m) A Static Water Supply (SWS) sign shall be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:
 - i. Markers must be fixed in a suitable location so as to be highly visible; and
 - ii. Markers should be positioned adjacent to the most appropriate access for the water supply.

Note: Below ground dedicated fire fighting water supply tank(s) is defined as that no part of the tanks(s) is to be located above natural ground level.

Landscaping

3. Any landscaping of the development site is to be undertaken in accordance with Appendix 5 of Planning for Bush Fire Protection 2006.

The Motion was **Carried**

FOR VOTE - Unanimous

13 [PR-CM] Development Application DA11/0456 for Additions to Existing Manufactured Home Estate Including 32 New Manufactured Home Sites, Recreation Area, Visitor Parking and Extension of Internal Road and Revegetation Work at Lot 193 DP 1014329 No. 34 Monarch Drive, Kingscliff

Cr W Polglase declared a pecuniary interest in this item, left the Chamber at 11:06 AM and took no part in the discussion or voting. The nature of the interest is that Cr Polglase is employed by the applicant.

511

Cr D Holdom

Cr B Longland

RESOLVED that:

1. This item be deferred until the next formal Council meeting.
2. The General Manager arranges a site inspection for all Councillors prior to the formal meeting at point 1.
3. A workshop follows the site inspection.

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

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

AGAINST VOTE - Cr P Youngblutt, Cr K Milne, Cr J van Lieshout

ABSENT. DID NOT VOTE - Cr W Polglase

Cr W Polglase has returned from temporary absence at 11:17 AM

14 [PR-CM] Kingscliff Police Station Redevelopment Proposal - Update on Land and Environment Court Judgement

Cr K Skinner declared a perceived non-significant, non-pecuniary Interest in this item, and remained in the Chamber for discussion and voting. The nature of the interest is that Cr Skinner is a member of the business community group that took action in this matter.

512

Cr D Holdom
Cr K Milne

PROPOSED that the report on the Kingscliff Police Station Redevelopment Proposal - Update on the Land and Environment Court Judgement be received and noted.

AMENDMENT

513

Cr K Skinner
Cr P Youngblutt

RESOLVED that:

1. The report on the Kingscliff Police Station Redevelopment Proposal - Update on the Land and Environment Court Judgement be received and noted.
2. Council writes to the Minister for Emergency Services (and a copy to Local State Members), with a request that Council be involved in helping to select a suitable site for this Police Station.

Cr W Polglase retired from the meeting at 11:23 AM.

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

FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr B Longland
AGAINST VOTE - Cr D Holdom, Cr K Milne, Cr J van Lieshout
ABSENT. DID NOT VOTE - Cr W Polglase

The Amendment on becoming the Motion was **Carried** on the casting vote of the Mayor - (Minute No 513 refers)

FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr B Longland
AGAINST VOTE - Cr D Holdom, Cr K Milne, Cr J van Lieshout
ABSENT. DID NOT VOTE - Cr W Polglase

