



**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 21 March 2013**

held at Murwillumbah Cultural and Civic Centre  
commencing at 4.45pm

## 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 4.45pm.

## **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 David Keenan (General Manager), Mr Patrick Knight (Director Engineering and Operations), Mr Vince Connell (Director Planning and Regulation), Mr David Oxenham (Director Community and Natural Resources), Mr Neil Baldwin (Manager Corporate Governance/Public Officer) and Mrs Meredith Smith (Minutes Secretary).

## **REPORTS FROM THE DIRECTOR PLANNING AND REGULATION**

### **19 [PR-CM] Development Application DA12/0537 for a Two Lot Subdivision at Lot 7 DP 849520 No. 207 Howards Road, Burringbar**

1

**Cr K Milne**  
**Cr G Bagnall**

**RESOLVED** that Development Application DA12/0537 for a two lot subdivision at Lot 7 DP 849520; No. 207 Howards Road, Burringbar be refused for the following reasons:

1. The Department of Planning and Infrastructure has not issued concurrence.
2. The proposed subdivision does not comply with the 40 hectare minimum development standard contained within Clause 20(2)(a) of the Tweed Local Environmental Plan 2000.
3. The State Environmental Planning Policy No. 1 objection has not demonstrated that the development standard is unnecessary and unreasonable.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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

The General Manager declared an interest in this matter and vacated the Chamber. The nature of the interest is that the General Manager owns property in the subject location.

2

**Cr K Milne**  
**Cr M Armstrong**

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

The Motion was **Carried**

**FOR VOTE - Unanimous**

The General Manager returned to the meeting.

**21 [PR-CM] Development Application DA12/0588 for Addition of Decks (Front and Side), Rear Enclosed Deck and Building Line Variation for Double Carport at Lot 1 Section 1 DP 30148 No. 2 Dobbys Crescent, Terranora**

3

**Cr W Polglase  
Cr P Youngblutt**

**RESOLVED** that:

1. 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.
2. Development Application DA12/0588 for addition of decks (front and side), rear enclosed deck and building line variation for double carport at Lot 1 Section 1 DP 30148 No. 2 Dobbys Crescent, Terranora be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.  
[GEN0015]
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 Deep Soil Zone (DSZ) identified on approved plans shall not incorporate any hard impervious surfaces, unless otherwise approved by the General Manager or his delegate.  
[GEN0285]
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. The carport must not be enclosed to ensure adequate sight lines are maintained for safe vehicular access to and from the property.

[GENNS01]

#### PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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. The 75mm galvanised posts located 400mm off the front boundary are to be replaced with masonry or similar columns having a minimum dimension of 230 mm by 230 mm in order to be sympathetic to the design of the existing dwelling house and reduce the impact upon the streetscape. Details of the above column design are to be submitted to the PCA before the issue of the construction certificate.

[PCCNS01]

#### PRIOR TO COMMENCEMENT OF WORK

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. 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]

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]

#### DURING CONSTRUCTION

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

[DUR0005]

15. 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]

16. 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]

17. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

18. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

19. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

20. 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]

21. 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]

22. 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]

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

[DUR1945]

25. 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]

26. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed.

[DUR2245]

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

[DUR2255]

28. The structure is to be sited at least one metre horizontally clear of sewer main on site and the carport slab must not impact upon the integrity of the sewer line

[DUR2645]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

29. 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]

30. 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]

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

[POC1055]

USE

32. 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]

33. 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]

34. 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]

The Motion was **Carried**

***FOR VOTE - Unanimous***

**22 [PR-CM] Development Application DA12/0565 for an Eight Lot Subdivision at Lot 58 DP 1083567 Collins Lane, Casuarina**

The General Manager declared an interest in the item and vacated the Chamber. The nature of the interest is that the General Manager owns property in the subject location.

4

**Cr W Polglase**  
**Cr M Armstrong**

**RESOLVED** that Development Application DA12/0565 for an eight lot subdivision at Lot 58 DP 1083567 Collins Lane, Casuarina 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, except where varied by the conditions of this consent.
  - Overall Site Subdivision Layout - Plan 1A by Planit dated 01/13 Rev. 2.
  - Proposed Eight Lot Subdivision - Plan 1C by Planit dated 01/13 Rev. 2.
  - Car Parking Layout Concept by Planit dated 02/13.
  - Proposed Sewer Reticulation Layout plan by Opus No. TW\_N-T2013.01 sheet Rev.1 dated 21.9.12 - subject to relocation of the sewer main to avoid Lot 3.

[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. A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material.

Should adjustments be required to the sewer manhole, then application shall be made to Council's Community and Natural Resources Division for approval of such works.

[GEN0155]

5. If landscaping is proposed. A detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate. The Landscape Plan is to contain a detailed plant schedule indicating the location of all proposed planting and any existing vegetation to be retained on the site and including:

- Species listed by botanical and common names, with a minimum of 80% of plants constituting local native species;
- Specific location, planting densities and quantities of each species; pot sizes; the estimated sizes of the plants at maturity, and proposed staking methods, if applicable.

[GENNS01]

6. No residential, associated buildings or structures are permitted on land zoned 7(f) Environmental Protection (Coastal Lands).

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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7. 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 final Subdivision/Occupation Certificate is issued.

[PCC0275]

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

[PCC0285]

9. 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]

10. 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]

11. 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 as part of the construction certificate application.

[PCC0485]

12. 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]

13. 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.

OTHER

- (a) Provision of water connections generally as per "Proposed Water Reticulation Layout" plan by Opus No. TW\_N-T2013.01 sheet 4 Rev. 1 dated 21.9.12 - except that the depicted water service lines for Lots 7 to 10 shall follow the route of the Right of Way as depicted on plans by Planit.
- (b) Construction of sewer infrastructure generally as per "Proposed Sewer Reticulation Layout" plan by Opus No. TW\_N-T2013.01 sheet 3 Rev.1 dated 21.9.12 - subject to:
  - Relocation of the sewer main to avoid Lot 3.
  - The sewer junctions for Lots 8 and 9 will be required to extend beyond the 'Easement for Services' to avoid possible future conflicts with conduits for other services.
  - OPTION: To avoid extra works within the 7(f) zone, the sewer connection for Lot 7 could be provided at the western side of the lot, via a short dead-end line coming from the manhole within Lot 9 (ie: relocated out of Lot 8).

Note: sewer main construction will need to be of sufficient depth to enable internal house service lines to fall to the connection points, primarily regarding Lots 8 and 9 but also as an option for Lot 7, as this would be against the fall of the land: site filling is necessary as per the following requirement.

- (c) Site filling to facilitate fall to the Collins Lane road frontage for Lot 3. This is to enable stormwater infiltration surcharges to gravitate to the street. Note that excessive filling is to be avoided, as sewer connections for Lots 8 and 9 (at least) will be located at the high side of those lots.
- (d) The driveway within the access handle for lot 3 is to be constructed as part of the subdivision works, as well as a concrete area for the off-street visitor car parking space within the allotment.
- (e) Construction of a 4.5m (minimum) wide concrete driveway within the Right of Way over lots 8, 9 and 10, generally as depicted on Plan No. 1C by Planit dated 01/13.
- (f) Provision of appropriate conduits to cater for all services to lots 7, 8 and 9, within the Right of Way (overlapped by an Easement for Services).
- (g) Construction of appropriate off-street visitor parking spaces within Lots 7, 8 and 9 generally as depicted on Plan No. 1C by Planit dated 01/13.
- (h) Proposed Lot 6 is required to have a concrete vehicular footpath crossing constructed at the western side of the lot frontage
- (i) The construction of the two vehicular footpath crossings for Lots 6 and 7-10 will necessitate some removal of existing on-street pavement marking (for car parking), and accordingly will require appropriate new marking or signage to easily delineate the two driveways amongst the existing marked parking bays.
- (j) The Dryandras Court frontage will require submission of a landscaping plan.
- (k) The footpath area of the Collins Lane frontage is to be turfed.

- (l) Construction of four (4) replacement car parking spaces at the end of the cul-de-sac of Dryandras Court as per e-mail advice from Planit dated 14.2.2013 and attached plan by Planit 'Car Parking Layout Concept' dated 02/13.
- (m) Provision of an area for refuse bin enclosure and letterboxes, for use by Lots 7, 8 and 9 within Lot 10, is to be addressed by the construction certificate.
- (n) Compliance of the Right of Way with Section 4.1.3(2) of Planning For Bushfire Protection will need to be verified prior to issuing a construction certificate.

[PCC0875]

14. 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:
  - 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), 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]

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

- Connection of a private stormwater drain to a public stormwater drain
- Installation of stormwater quality control devices
- Erosion and sediment control 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]

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

[PCC1155]

17. Prior to the issue of a construction certificate, evidence of registration of the adjoining subdivision that dedicates Dryandras Court as public road, must be provided.

[PCCNS01]

#### PRIOR TO COMMENCEMENT OF WORK

18. 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]

19. 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, 3<sup>rd</sup> 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]

20. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of the fill, nature of material, proposed use of material and confirmation that further blending, crushing or processing is not to be undertaken shall be submitted to the satisfaction of the General Manager or his delegate.

Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to the issue of the Subdivision Certificate.

[PCW0375]

21. 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 complianceThe 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]

22. 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]

23. 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

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

[DUR0005]

25. 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]

26. 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]

27. All lots must be graded to prevent the ponding of surface water and be adequately vegetated to prevent erosion from wind and/or water to the satisfaction of the General Manager or his delegate.

[DUR0745]

28. During filling operations,

- No filling is to be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.
- 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 and to the satisfaction of the Principal Certifying Authority.

and upon completion,

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

[DUR0755]

29. No filling is to be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.

No filling of any description is to be deposited, or remain deposited, within adjacent properties.

[DUR0765]

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

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

[DUR0795]

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

[DUR0815]

32. 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]

33. 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]

34. 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]

35. 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]

36. All works shall be carried out in accordance with Councils Acid Sulfate Soils Management Plan for Minor Works. A signed copy of this Management Plan shall be submitted to Council prior to the commencement of works.

[DUR1075]

37. The existing concrete footpaths are to be saw cut and removed to facilitate the construction of the concrete driveway accesses.

[DUR1745]

38. 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]

39. 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]

40. 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:

Right of Way/Driveway works

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Formwork/reinforcement
- (e) Final inspections - on maintenance
- (f) 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) 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]

41. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.

[DUR1905]

42. 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]

43. The works are to be completed in accordance with Tweed Shire Councils Development Control Plan, Part A5 - Subdivision Manual and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.

[DUR2025]

44. 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]

45. 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]

46. No acid sulfate soils to be disturbed without the prior written approval of Council.

#### PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

47. 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]

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

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

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

Water DSP6: 7 ET @ \$12150 per ET \$85,050

South Kingscliff Water Levy: 7 ET @ 282 per ET \$1,974

Sewer Kingscliff: 7 ET @ \$5838 per ET \$40,866

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.

[PCC0265/PSC0165]

49. 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:

45.5 Trips @ \$1155 per Trips \$52,553

(\$1145 base rate + \$10 indexation)

S94 Plan No. 4

Sector7\_4

LCA4 - Casuarina: \$7,690

45.5 trips at \$169 per trip

(\$168 base rate + \$1 indexation)

(b) Shirewide Library Facilities:

7 ET @ \$816 per ET \$5,712

(\$792 base rate + \$24 indexation)

S94 Plan No. 11

(c) Bus Shelters:

7 ET @ \$62 per ET \$434

(\$60 base rate + \$2 indexation)

S94 Plan No. 12

- (d) Eviron Cemetery:  
 7 ET @ \$121 per ET \$847  
 (\$101 base rate + \$20 indexation)  
 S94 Plan No. 13
- (e) Extensions to Council Administration Offices  
 & Technical Support Facilities  
 7 ET @ \$1812.62 per ET \$12,688.34  
 (\$1759.9 base rate + \$52.72 indexation)  
 S94 Plan No. 18
- (f) Casuarina Beach/Kings Forest Community Facilities:  
 7 ET @ \$2203 per ET \$15,421  
 (\$2153 base rate + \$50 indexation)  
 S94 Plan No. 19
- (g) Casuarina Beach/Kings Forest Open Space:  
 7 ET @ \$1245 per ET \$8,715  
 (\$717 base rate + \$528 indexation)  
 S94 Plan No. 19
- (h) Cycleways:  
 7 ET @ \$460 per ET \$3,220  
 (\$447 base rate + \$13 indexation)  
 S94 Plan No. 22
- (i) Regional Open Space (Casual)  
 7 ET @ \$1064 per ET \$7,448  
 (\$1031 base rate + \$33 indexation)  
 S94 Plan No. 26
- (j) Regional Open Space (Structured):  
 7 ET @ \$3730 per ET \$26,110  
 (\$3619 base rate + \$111 indexation)  
 S94 Plan No. 26

[PCC0215/PSC0175]

50. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Environmental Planning and Assessment 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.

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

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

#### Heavy Haulage Component

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 5 prior to the issue of the subdivision 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)

$\text{\$Unit}$  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

[PSC0185]

51. 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 public infrastructure works (minimum as tabled in Councils 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]

52. A bond to ensure acceptable plant establishment and landscaping performance at time of handover to Council shall be lodged by the Developer prior to the issue of the Subdivision Certificate. The bond shall be held by Council for a period of 12 months from the date of issue of the Subdivision Certificate and may be utilised by Council during this period to undertake essential plant establishment or related plant care works, should non compliance occur. Any balance remaining at the end of the 12 months establishment period will be refunded.

The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.

[PSC0235]

53. Prior to the issue of a subdivision certificate, a certificate of compliance shall be submitted to Council by the Developers Subdivision Works Accredited Certifier

(SWAC) or equivalent, verifying that the placed fill has been compacted in accordance with the requirements of AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments" and is suitable for residential purposes.

The submission shall include copies of all undertaken test results.

[PSC0395]

54. All approved landscaping requirements must be completed to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. Landscaping must be maintained at all times to the satisfaction of the General Manager or delegate.

[PSC0485]

55. 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]

56. 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]

57. 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]

58. 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]

59. 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) The existing Restrictions on Title over this site numbered 9, 12 and 13 as created by DP1083567, as well as the Positive Covenant (No. 18), are to be reiterated on the 88B instrument over all relevant lots created by this subdivision.

- (c) The existing Restriction on Title No.15 (per 88B instrument annexed to DP 1083567) relating to compulsory use of the site for multi-unit tourist accommodation, is to be extinguished.
- (d) A Restriction on Title OR Positive Covenant shall be created over Lots 3, 7, 8 and 9 for a designated off-street visitor parking space.
- (e) Creation of a 6m / 9m Right of Way over Lots 8, 9 and 10.
- (f) Creation of an appropriate easement for bin enclosures and letterboxes over Lot 10, benefitting Lots 7, 8 and 9.
- (g) Creation of an Easement for Services over Lots 8, 9 and 10. The location of future water meters for Lots 7, 8 and 9, over Lot 10, must also be covered by this easement.
- (h) 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.

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.

[PSC0835]

60. 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]

61. 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]

62. Pursuant to Section 80A(1)(b) of the Environmental Planning and Assessment Act, 1979 (as amended) and Clause 97 of the Environmental Planning and Assessment Regulations, 2000 Development Consent No. DA06/1289 dated 24 January 2008 shall be surrendered by lodgement of the prescribed information, suitably executed, PRIOR to the issue of a Subdivision Certificate.

[PSC0875]

63. 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]

- 64. 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 - Right of Way / Driveways
  - (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]

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

[PSC0925]

- 66. 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 sewerage system 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]

- 67. 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]

68. 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]

69. Electricity

- (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
- (b) The reticulation includes the provision of fully installed electric street lights to the relevant Australian standard - if necessary. Such lights to be capable of being energised following a formal request by Council.

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]

70. The subdivision certificate for DA12/0243 must be issued prior to, or in conjunction with, the subdivision certificate for this proposal.

[PSCNS01]

71. The existing Restriction on Title (No. 15 per 88B instrument annexed to DP 1083567) relating to compulsory use of the site for multi-unit tourist accommodation, is to be extinguished.

[PSCNS02]

## 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 plan prepared by Planit Consulting, Plan No. 1B (rev: 02), dated 01/13.

### 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:

2. At the issue of subdivision certificate and in perpetuity, the entire area of proposed Lots 3 - 10 shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

### 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:

3. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

#### Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

4. Property access roads (including the proposed right of way to Lots 7-10) shall comply with section 4.1.3(2) of 'Planning for Bush Fire Protection 2006', except that dedication of the right of way as a public road is not required.

#### General Advice - consent authority to note

Any future development application lodged within this subdivision under section 79BA of the 'Environmental Planning & Assessment Act 1979' will be subject to requirements as set out in 'Planning for Bush Fire Protection 2006'.

Future development on lots within this subdivision that are not mapped as bushfire prone land may still be subject to the impacts from bushfire on surrounding land. Council should consider assessment of future development application on these lots against the requirements of s. 79C of the Environmental Planning and Assessment Act, 1979 and AS3959 Construction of building in bushfire prone areas.

To aid in fire fighting activities, future development on proposed Lots 7-10 should maintain unobstructed pedestrian access to the rear of the property.

The Motion was **Carried**

***FOR VOTE - Unanimous***

The General Manager returned to the meeting.

**23 [PR-CM] Development Application DA11/0254.05 for an Amendment to Development Consent DA11/0254 for a Shed at Lot 3 DP 211196 No. 385 Terranora Road, Banora Point**

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**Cr W Polglase  
Cr P Youngblutt**

**PROPOSED** that:

#### PART A

1. Development Application DA11/0254.05 for an amendment to Development Consent DA11/0254 for a shed at Lot 3 DP 211196; No. 385 Terranora Road, Banora Point be approved and the consent be amended as follows:

1. Delete Condition No. 1 and replace it with Condition No. 1A which reads as follows:
  - 1A. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 120400 sheets A1.00(C), A1.03(A), A2.00(B), A3.00(B), A3.01(B) prepared by Local Office Architecture and dated Oct. 2012, except where varied by the conditions of this consent.
2. Add the following new Condition No. 29A under the heading PRIOR TO ISSUE OF OCCUPATION CERTIFICATE:
  - 29A. Prior to the issue of an occupation certificate established landscaping shall be provided to the site to the satisfaction of Council's General Manager or his delegate in accordance with Landscape Plan No. A1.03(A) prepared by Local Office Architecture and dated October 2012.
3. Add the following new Condition No. 31A under the heading USE:
  - 31A. The partitioned area at the eastern end of the shed shall not be used for any purpose other than storage ancillary to the dwelling or a home business without the consent of Council.

#### PART B

A penalty infringement notice be issued to the owner of the property for carrying out building work which is not in accordance with the approved development consent.

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#### **AMENDMENT 1**

**Cr G Bagnall**  
**Cr K Milne**

**PROPOSED** that:

#### PART A

1. Development Application DA11/0254.05 for an amendment to Development Consent DA11/0254 for a shed at Lot 3 DP 211196; No. 385 Terranora Road, Banora Point be approved and the consent be amended as follows:
  1. Delete Condition No. 1 and replace it with Condition No. 1A which reads as follows:
    - 1A The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 120400 sheets A1.00(C), A1.03(A), A2.00(B), A3.00(B), A3.01(B) prepared by Local Office Architecture and dated Oct. 2012, except where varied by the conditions of this consent and subject to the following amendments:-
      - i. That the height of the building be reduced by 2m from the northern elevation downward pitching point;

- ii. Remove the existing fin wall located forward of the general front façade with no structures forward of the 10m setback (to the primary wall) outlined in the original approval;
  - iii. That the second driveway (secondary to the existing approved driveway entrance serving the existing dwelling house) is not supported and all access to the approved shed is to be provided by way of the existing driveway;
  - iv. That a detailed landscape plan be prepared and submitted to the Tweed Shire Council within 15 days of the date of this amended consent. This plan shall focus on dense native plantings screening the approved shed from adjoining properties and from Terranora Road. Such plan shall ensure that plants at maturity do not exceed 3.5m in height. The landscaping plan referenced above shall address the reinstatement of the unapproved second driveway to its natural state;
  - v. That the fence separating the approved shed and the existing dwelling house be removed entirely and that no fence separating the two (2) structures is to be constructed in the future;
  - vi. The amended plans referenced above are to be submitted to Council for approval within 30 days of the date of this amended consent and that the work outlined in the conditions above is to be carried out within three (3) months of Council's approval of the amended plans; and
2. Add the following new Condition No. 29A under the heading PRIOR TO ISSUE OF OCCUPATION CERTIFICATE:
    - 29A. Prior to the issue of an occupation certificate established landscaping shall be provided to the site to the satisfaction of Council's General Manager or his delegate in accordance with Landscape Plan No. A1.03(A) prepared by Local Office Architecture and dated October 2012.
  3. Add the following new Condition No. 31A under the heading USE:
    - 31A. The partitioned area at the eastern end of the shed shall not be used for any purpose other than storage ancillary to the dwelling or a home business without the consent of Council.

## PART B

A penalty infringement notice be issued to the owner of the property for carrying out building work which is not in accordance with the approved development consent.

Amendment 1 was **Carried**

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

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**AMENDMENT 2**

**Cr B Longland  
Cr K Milne**

**RESOLVED** that this item be deferred to a Council workshop.

Amendment 2 was **Carried**

**FOR VOTE - Unanimous**

Amendment 2 on becoming the Motion was **Carried** - (Minute No 137 refers)

**FOR VOTE - Unanimous**

**24 [PR-CM] Planning Proposal PP12/0001 - No. 420-434 Terranora Road,  
Terranora**

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**Cr W Polglase  
Cr P Youngblutt**

**PROPOSED** that:

1. Council provides conditional support for Planning Proposal PP12/0001 to rezone Lots 2–8 DP 28597 from 1(b1) Agricultural Protection to 2(a) Low Density Residential under Tweed Local Environmental Plan (TLEP) 2000, subject to Recommendations 2, 3, 4 and 5 below;
2. Council officers enter into negotiations with the owner of Lots 2-8 DP 28597, 420-434 Terranora Road, Terranora, for the preparation of a Planning Agreement pursuant to s93F of the *Environmental Planning and Assessment Act 1979*, which ensures that development of vacant allotments does not occur until such time as critical constraints affecting the site including visual amenity and scenic escarpment impact within the contents of the Far North Coast Regional Strategy and Area E Urban Release Development Code, the number and configuration of allotments are addressed to the satisfaction of Council, and prior to public exhibition of the Planning Proposal, and that ongoing maintenance and management requirements are secured within the planning agreement; and
3. Should the landowner agree in writing to enter into a planning agreement as described in '2' above, that the draft Planning Proposal attached to this Council Report be amended to incorporate an acknowledgement of this concurrence and that the Planning Proposal be forwarded to the Department of Planning and Infrastructure for an initial Gateway Determination; and
4. Should the proponent not agree in writing to enter into a planning agreement prior to forwarding the Planning Proposal to the Department of Planning and Infrastructure for an initial Gateway Determination, that the planning proposal not be referred for a Gateway Determination.

5. Should any one of the critical constraints affecting the site not be resolved to the satisfaction of Council, that the planning proposal not be placed on public exhibition and a further report be prepared for Council's consideration detailing any prevailing issues.
6. Consultation with the landowners of the four adjoining properties, Lot 1 DP 28597, Lots 9, 10 and 11 DP 28597 commence regarding their inclusion within a revised planning proposal post receipt of the initial Gateway Determination for Lots 2-8 DP 28597, and a further report be prepared for Council's consideration detailing the specifics of the consultation and recommendations for proceeding with the rezoning of those properties.
7. Consultation also occur post receipt of the initial Gateway Determination for Lots 2-8 DP 28597 with the other two adjacent properties being Lots 16 and 19, DP 1092500 on the upslope side of Terranora Road and these consultations also be included in the future report to Council.
8. The Draft Tweed LEP Amendment Number 97 be amended to include a need to address and adhere to the Area E Urban Release Development Code with particular reference to section 3.2.9 views and scenic Protection.
9. The Minister for Planning and Infrastructure be advised that a delegation of the Plan Making functions is not being sought in this instance.

The Motion was **Lost**

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

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

**25 [PR-CM] Planning Proposal PP11/0005 Club Banora, Leisure Drive, Banora Point**

9

**Cr P Youngblutt**

**Cr W Polglase**

**RESOLVED** that:

1. Planning Proposal PP11/0005 to rezone Part Lot 2 DP 1040576 (a total of 30,000m<sup>2</sup>), Leisure Drive, Banora Point to facilitate commercial/retail development be forwarded to the Department of Planning and Infrastructure for a Gateway Determination under section 56 of the *Environmental Planning and Assessment Act 1979*, and
2. Upon receipt of a Gateway Determination, to undertake all necessary investigations and reports, consultation, and public exhibition as required by the Gateway Determination and Council.
3. The Minister for Planning and Infrastructure be advised that a delegation of the Plan Making functions is not being sought in this instance.

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**

**26 [PR-CM] Planning Proposal PP10/0007 - Mooball Planning Proposal Lot 2 DP 534493 No. 5867 Tweed Valley Way, Mooball**

10

**Cr P Youngblutt  
Cr W Polglase**

**RESOLVED** that the report on Planning Proposal PP10/0007 - Mooball Planning Proposal Lot 2 DP 534493 No. 5867 Tweed Valley Way, Mooball be received and noted.

11

**AMENDMENT**

**Cr K Milne  
Cr G Bagnall**

**PROPOSED** that:

1. The report on Planning Proposal PP10/0007 - Mooball Planning Proposal Lot 2 DP 534493 No. 5867 Tweed Valley Way, Mooball be received and noted.
2. The Planning Proposal PP10/0007 - Mooball Planning Proposal Lot 2 DP 534493 No. 5867 Tweed Valley Way, Mooball be discontinued.

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 142 refers).

***FOR VOTE - Unanimous***

**a26 [PR-CM] Class 1 Appeal in Relation to 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. 3**

Cr W Polglase declared a pecuniary Interest in this item, left the Chamber at 08:19 PM and took no part in the discussion or voting. The nature of the interest is that Cr Polglase has a Management Agreement with the applicant.

**LATE ITEM**

12

**Cr P Youngblutt**  
**Cr C Byrne**

**RESOLVED** that Item a26, being an Addendum item, be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

**FOR VOTE - Voting - Unanimous**  
**ABSENT. DID NOT VOTE - Cr W Polglase**

13

**Cr K Milne**  
**Cr G Bagnall**

**RESOLVED** that Council in respect of its decision to refuse DA11/0456 for additions to an existing manufactured home estate at Lot 193 DP1014329, 34 Monarch Drive, Kingscliff, determines to engage its solicitors to defend the refusal of the proposed additional 32 manufactured home sites.

The Motion was **Carried**

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

Cr W Polglase returned to the meeting at 8:20 PM.

**CONFIDENTIAL COMMITTEE**

**REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE**

**1 [PR-CM] Leda Cobaki Development Site - Compliance Issues - Unauthorised Subdivision Works**

**REASON FOR CONFIDENTIALITY:**

Report contains "Without Prejudice" matters

**Local Government Act**

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

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

C 8

That the report on Leda Cobaki Development Site - Compliance Issues - Unauthorised Subdivision Works be received and noted.

The Motion was **Carried**

***FOR VOTE - Unanimous***

## **2 [PR-CM] Breach of Legislation, Tweed River Hacienda Caravan Park**

### **REASON FOR CONFIDENTIALITY:**

This report has been made Confidential so as not to prejudice any future legal proceedings.

#### **Local Government Act**

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

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

C 9

That the report on Breach of Legislation, Tweed River Hacienda Caravan Park be received and noted.

The Motion was **Carried**

***FOR VOTE - Unanimous***

