



TWEED
SHIRE COUNCIL

Mayor: Cr B Longland

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 November 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 Troy Green (Acting General Manager), Mr Michael Chorlton (Acting Director Technology and Corporate Services), Mr Patrick Knight (Director Engineering and Operations), Mr Lindsay McGavin (Acting Director Planning and Regulation), Ms Naida Tattersall (on behalf of Director Community and Natural Resources), Mr Neil Baldwin (Manager Corporate Governance/Public Officer) and Mrs Maree Morgan (Minutes Secretary).

DISCLOSURE OF INTEREST

Cr C Byrne declared a pecuniary interest in Item 22. The nature of this interest is that Cr C Byrne acts for a client in this matter. Cr C Byrne will manage the conflict by leaving the Chamber and taking no part in the discussion or voting.

Cr C Byrne declared a non-significant non-pecuniary interest in Item 29. The nature of this interest is that Cr C Byrne is well known to the landowners. Cr C Byrne will manage the Interest by vacating the Chamber and taking no part in the discussion or voting on the matter.

Cr Youngblutt declared a Non-Significant, Non-Pecuniary Interest in Item 23. The nature of the interest is that Cr P Youngblutt has a family association with the property the subject of the report. Cr P Youngblutt will manage the Interest by vacating the Chamber and taking no part in the discussion or voting on the matter.

Cr P Youngblutt declared a Non-Significant, Non-Pecuniary Interest in Item 31. The nature of the interest is that Cr P Youngblutt is a member of the Mooball/Burringbar Progress Association. Cr P Youngblutt advised he will remain in the Chambers during discussion and voting on the matter.

Cr Milne declared a Non-Significant, Non-Pecuniary Interest in Items 4, 7 and 12. The nature of the interest is that Cr K Milne is involved in a defamation legal matter with LEDA Developments. Cr K Milne advised she will remain in the Chambers during discussion and voting on these matters.

695

Cr B Longland
Cr M Armstrong

RESOLVED that Standing Orders be suspended to deal with Item 4, 12, 21, 47 and 48 of the Agenda.

The Motion was **Carried**

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

4 [NOM-Cr B Longland] Tweed Coast Koalas

Cr K Milne declared a non-significant, non-pecuniary Conflict of Interest. The nature of the interest is that Cr K Milne is involved in a defamation legal matter with LEDA Developments. Cr K Milne advised that she will remain in the Chambers during discussion and voting on these matters.

NOTICE OF MOTION:

696

Cr B Longland
Cr K Milne

PROPOSED that, given the continuing pressures that impact on the precarious position of our Tweed Coast Koala, Council's submission to the Federal Government's assessment of the Kings Forest development as a controlled action under the Environment Protection and Biodiversity Conservation Act includes a recommendation that consideration be given to a total ban on all dogs across the Kings Forest development site.

697

AMENDMENT

Cr M Armstrong
Cr K Milne

RESOLVED, in recognition of the Federal and State Governments' listing the koala as vulnerable and Council's 2012 submission as to the vulnerability of the Tweed Coast Koala population, that Council:

1. Prepares a submission to the Federal Government's public exhibition of the Kings Forest Development; and
2. Council's submission includes provision for a policy which excludes all dogs except for Assistance Animals as defined by Section 9 of the Commonwealth *Disability Discrimination Act 1992*."

The Amendment was **Carried**

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

The Amendment on becoming the Motion was **Carried** - (Minute No 697 refers)

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

12 [NOM-Cr K Milne] Kings Forest EPBC Submission No Dogs Policy

NOTICE OF MOTION:

This item was withdrawn at the meeting

21 [PR-CM] Review of Environmental Factors PTV12/0022 for Construction of Tennis Courts (Including Lighting) and Associated Car Parking, Pedestrian Access and Drainage at Lot 301 DP 1125090 Overall Drive, Pottsville

698

Cr M Armstrong
Cr K Milne

RESOLVED that the application PTV12/0022 for Construction of Tennis Courts (Including Lighting) and Associated Car Parking, Pedestrian Access and Drainage at Lot 301 DP 1125090 Overall Drive, Pottsville be refused for the following reasons:

1. Pursuant to Section 5 Objects of the *Environmental Planning & Assessment Act 1979* (as amended), the proposed development cannot be determined to satisfy subsection (a)(vi), the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats:

The proposed development would have an unacceptable impact with respect to the adjacent significant habitat and breeding area for the threatened Tweed Coast Koala population.

2. Pursuant to Section 79C(1)(b) of the *Environmental Planning & Assessment Act 1979* (as amended), the proposed site is not considered suitable for the proposed development.

The proposed development would have an unacceptable impact with respect to the adjacent significant habitat and breeding area for the threatened Tweed Coast Koala population.

3. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning & Assessment Act 1979* (as amended) the proposed development is not considered to be compliant with Environmental Planning Instruments.

The proposed development is inconsistent with the aims of *SEPP44 Koala Habitat Protection.*"

The Motion was **Carried**

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

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

A RECISSION MOTION WAS RECEIVED ON THIS ITEM FROM CRS C BYRNE, W POLGLASE AND P YOUNGBLUTT.

47 [CNR-CM] Biofund Koala Connections Project Status Update

699

Cr C Byrne

Cr M Armstrong

RESOLVED that Council notes the current status of the Koala Connections project including the planned priorities for the remainder of the current project period.

The Motion was **Carried**

FOR VOTE - Unanimous

48 [CNR-CM] Biofund Koala Connections Project Implementation

700

Cr C Byrne

Cr K Milne

RESOLVED that Council approves the proposed funding to assist private landowners to undertake the projects listed in the table contained within the report.

The Motion was **Carried**

FOR VOTE - Unanimous

701

Cr B Longland

Cr M Armstrong

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS THROUGH THE ACTING GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

19 [PR-CM] Marine Rescue Point Danger (Training Facilities) Coral Street, Duranbah

720

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that Council:

1. Supports the issue of a new conditional three year lease for the Marine Rescue Point Danger Training Facilities at Coral Street, Duranbah to Marine Rescue Point Danger, noting that the conditions of the lease will include a termination of licence clause if the NSW Trade and Investment, Crown Lands determine that there is a higher level of community interest identified prior to the expiration date of the licence;
2. Supports the decision to relinquish responsibility to Marine Rescue Point Danger for the day to day maintenance and future repairs required at the site during the three year tenure; and
3. Approves the request to NSW Trade and Investment, Crown Lands for in-principle support and interim licence to allow Marine Rescue Point Danger to begin remediation works to the Coral Street Training Rooms as per the approved Treasury Managed Fund claim.

The Motion was **Carried**

***FOR VOTE - Unanimous
ABSENT, DID NOT VOTE - Cr M Armstrong***

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

721

Cr G Bagnall

Cr K Milne

RESOLVED that Development Application DA13/0132 for a change of use (first approved use) to surfboard manufacturing, extension of mezzanine level and associated signage at Lot 19 SP 80033 No. 19/23-25 Ourimbah Road Tweed Heads be deferred to enable assessment of the submitted Air Quality Assessment Report.

The Motion was **Carried**

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

AGAINST VOTE - Cr C Byrne

ABSENT. DID NOT VOTE - Cr M Armstrong

Cr M Armstrong has returned from temporary absence at 08:43 PM

- 21 [PR-CM] Review of Environmental Factors PTV12/0022 for Construction of Tennis Courts (Including Lighting) and Associated Car Parking, Pedestrian Access and Drainage at Lot 301 DP 1125090 Overall Drive, Pottsville**

This item was dealt with at Minute No 698.

- 22 [PR-CM] Development Application DA13/0024 for a 44 Lot Subdivision, Construction of Internal Road and Associated Infrastructure at Lot 1 DP 407094 Cudgen Road, Cudgen and Lot 1 DP 598073 No. 17 Collier Street, Cudgen**

Cr C Byrne has temporarily left the meeting at 08:43 PM due to a pecuniary Conflict of Interest in this item. The nature of this interest is that Cr C Byrne acts for a client in this matter. Cr C Byrne will manage the conflict by leaving the Chamber and taking no part in the discussion and voting.

722

Cr G Bagnall

Cr M Armstrong

RESOLVED that this item be deferred for a Workshop.

723

AMENDMENT

Cr P Youngblutt

Cr W Polglase

PROPOSED that Development Application DA13/0024 for a 40 lot subdivision, construction of internal road and associated infrastructure at Lot 1 DP 407094 Cudgen Road, Cudgen and Lot 1 DP 598073 No. 17 Collier Street, Cudgen be approved subject to the following conditions:

"DEFERRED COMMENCEMENT"

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

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

SCHEDULE "A"

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

1. The applicant is to provide an acoustic report prepared by a suitably qualified acoustic consultant to the satisfaction of the General Manager or delegate. The acoustic report shall include but not be limited to:
 - (i) A review of the Statement of Environmental Effects for NSW Planning Major Project MP05_0103, conditions of the approval and the requirements of the NSW Industrial Noise Policy.
 - (ii) Informed comment, based on sound modelling, as to the noise impact of the defined PSNL nominated, on the basis of the methodology carried out, at each proposed residential lots, internal and external to any standard constructed dwelling.
 - (iii) Identification of each of the instances where the modelling predicts exceedance of determined background levels across each of the day, evening and night periods .
 - (iv) Identification of where exceedance are greater than 5 dB(a) above background and recommend reasonable measures that may be carried out to reduce noise impact. If the acoustic report demonstrates reasonable mitigation measures, where required, cannot be implemented and exceedance are not acceptable the application in its current form is unable to proceed.
2. A Contaminated Land Investigation Report shall be prepared, by a suitably qualified and experienced person, and submitted to the General Manager or delegate for approval. The report shall assess previous banana growing and potential termite treatment, and be prepared in accordance with relevant documents made or approved by the NSW Environment Protection Authority in accordance with the Contaminated Land Management Act 1997. Where required, a Remediation Action Plan (RAP) shall be prepared and submitted. The report shall demonstrate that the site is suitable, or is able to be made suitable following remedial works, for the proposed land use.

SCHEDULE B

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

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 1 revision O prepared by Bennett + Bennett Surveyors and Planners and dated 13/09/2013 and Project Number WLN01 prepared by Place Planning Design Group Pty Ltd dated 16/08/2013 and the Farm Management Practices prepared by Kevin Wilson's Real Estate dated 7 August 2013 except where varied by the conditions of this consent.
[GEN0005]
2. The use of crushing plant machinery, mechanical screening or mechanical blending of materials is subject to separate development application.
[GEN0045]
3. 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]
4. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property.
[GEN0135]
5. 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 these changes are to be shown on the application for a Construction Certificate.
[GEN0155]
6. The area described as 'Proposed Environment Covenant B - 424m²' shown on Plan No 1 Rev. O Proposed Subdivision dated 13 September 2013 prepared by Bennett & Bennett must be the subject to an ecological restoration program (undertaken in accordance with an approved habitat restoration plan) and managed as a natural area for conservation purposes in perpetuity.
[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. Prior to the issue of a Civil Construction Certificate for each stage of the project, a Construction Management Plan shall be submitted to and approved by the Principle Certifying Authority. A copy of the approved plan shall be submitted to Council. The Plan shall address, but not be limited to, the following matters where relevant:
 - a) Hours of work;
 - b) Contact details of site manager;
 - c) Traffic and pedestrian management;
 - d) Noise and vibration management;
 - e) Construction waste management;
 - f) Erosion and sediment control; and,
 - g) Flora and fauna management.

Where construction work is to be undertaken in stages, the Proponent may, subject to agreement with the Principle Certifying Authority, stage the submission of the

Construction Management Plan consistent with the staging of activities relating to that work. The Proponent shall submit a copy of the approved plan to Council.

[PCC0125]

8. The Construction Certificate Application shall include a detailed Stormwater Management Plan (SWMP) for the occupational or use stage of the proposed development, prepared in accordance with Section D7.07 of Council's Development Design Specification D7 - Stormwater Quality. The plans are to include measures, monitoring and adaptive management actions to ensure appropriate stormwater quality outcomes are achieved.

Permanent stormwater quality treatment shall comply with the Tweed Urban Stormwater Quality Management Plan and Council's Development Design Specification D7 - Stormwater Quality. Variations to these standards shall only be accepted where they are supported by best practice water sensitive urban design principles entailed in the "Water By Design" guidelines (being a program of the South East Queensland Healthy Waterways Partnership).

Treatment basins must be provided with a facility to bypass major stormwater flow events (greater than the Q3 month storm event), or otherwise cater for major storm flows without disturbing captured pollutants or damaging the structure.

Proposed treatment measures other than "deemed to comply" measures as specified in Council's Development Design Specification D7, must be supported by engineering calculations, including MUSIC modelling, to confirm that acceptable capacity and efficiency is achieved.

An Operational Manual for all stormwater quality control devices must be provided as part of the SWMP. This manual must be updated as required during the Defects Liability ("On-Maintenance") Period for the device and the final version of the manual must be handed over to Council at the formal commissioning of the device, at the completion of the Defects Liability Period ("Off Maintenance").

[PCC0165]

9. 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]

10. 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]

11. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17⁰ or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.

Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:

- (a) Contours and terraces where the height exceeds 1m.
- (b) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
- (c) Densely plant with appropriate native species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
- (d) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.

[PCC0455]

12. 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 the application for a Construction Certificate.

[PCC0485]

13. Site filling and associated drainage is to be designed to address drainage on the site as well as existing stormwater flows onto or through the site, and minimising the impact of filing on local drainage. Detailed engineering plans of fill levels and perimeter drainage shall be submitted for Council approval.

[PCC0675]

14. 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]

15. 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;

- (a) Construction of an urban bitumen sealed road formation 7.5m between kerbs.
- (b) Collier Street is to be reconstructed from the property boundary of Lot 71 DP 755701 into the subdivision as per drawing no. K2027 issue A titled 'Preliminary Roadworks Plan' prepared by Knobel Consulting dated 3 June 2013. The developer is to liaise with Council when the subdivision road works are expected to commence to allow for Council to program the Collier Street upgrade in conjunction with the developer.
- (c) A reinforced concrete footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire road frontage of the site and

Collier Street up to the property boundary of Lot 71 DP 755701 in accordance with Councils Development Design and Construction Specifications and Standard Drawing SD013.

- (d) Traffic control devices are to be shown on the application for a Construction Certificate. A stop sign and associated line marking is to be placed at the intersection of Road 1 & 2 (northern intersection). A give way sign and associated line marking is required at the intersection of Road 2 and Crescent Street.
- (e) The application for a Construction Certificate is to demonstrate that a gravity sewer connection for proposed consolidated Lots 38 and 39 is able to adequately service a future dwelling.
- (f) The proposed piped drainage system is to be redesigned to mainly be located within the road reserve and not under the road pavement.
- (g) The detailed design of the 2 inlet pits located prior to the Gross Pollutant Trap must demonstrate that they are capable of capturing Q_{100} flows from the major street system and directing it to the proposed detention basin.

[PCC0875]

16. 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
 - retaining walls
 - 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]

17. 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.
- (d) Specific Requirements to be detailed within the Construction Certificate application include:
- (e) Shake down area along the haul route immediately before the intersection with the road reserve.

[PCC1105]

18. 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]

19. 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]

20. Prior to issue of the construction certificate the applicant is to submit a landscape plan for the vegetated buffer on Lot 38, prepared by a suitably qualified landscape architect. The vegetated buffer is to contain random plantings of a variety of tree and shrub species of differing growth habits, at spacings of four to five metres. The vegetated buffer is to include species that have long, thin and rough foliage that facilitate the more efficient capture of spray droplets. The vegetated buffer is to include at least 80% local native species. The landscape plan is to be to the satisfaction of the General Manager or his delegate.

21. Prior to the issuing of a Construction Certificate, a construction noise assessment is to be prepared in accordance with the Interim Construction Noise Guideline (DECC, 2009), to the satisfaction of the General Manager or his delegate. The construction noise assessment is to be prepared by a suitably qualified person.
22. Prior to the issuing of a Construction Certificate, a dust management plan is to be prepared to the satisfaction of the General Manager or his delegate. The dust management plan is to be prepared by a suitably qualified person.
23. Prior to the issuing of a Construction Certificate, a demolition plan is to be prepared to the satisfaction of the General Manager or his delegate. The demolition plan shall reference Australian Standard AS 2601 *The Demolition of Structures*, and the requirements of NSW WorkCover and the *Work Health and Safety Regulation 2011*. The demolition plan is to be prepared by a suitably qualified person.

[PCCNS02]

24. A landscape plan must be submitted that addresses the nature strip of all roads to be dedicated to Council. Such a plan should show only suitable street trees and turf, and must be approved by the Manager, Recreation Services, Tweed Shire Council. The landscape and civil drawings must be consistent in the space allowed for planting trees between the kerb and footpath, and must be consistent with TSC standard drawing SD-701. The street tree locations are also to be consistent with the Development Design Specification D14 and be planted no less than 7.5m from streetlights. The street tree species to be used is to be negotiated with Council, and it is preferable they be native to the local area.

[PCCNS03]

25. A Habitat Restoration Plan ('HRP') must be submitted for the following 'ecological restoration areas' as shown on Plan No 1 Rev. O Proposed Subdivision dated 13 September 2013 prepared by Bennett & Bennett:
 - a. Proposed Environment Covenant B - 424m²;
 - b. Remaining contiguous tract of significant vegetation occurring within the Crescent Street road reserve (western side) for a length of approximately 73 metres immediately to the rear of Lots 33 and 34; and
 - c. An approximate five (5) metre wide buffer around the entire perimeter of the 'Water Catchment Lake' unless where restricted by the proposed northern access road.

The HRP shall be prepared by a suitably qualified professional in accordance with Council's Draft Habitat Restoration Plan Preparation Guideline dated February 2012 (attached) for the identified 'ecological restoration areas' to include the following information (but may not limited to):

- a. An appraisal of the present condition of remnant vegetation;
 - b. A plan overlaying an aerial photograph of the site which divides the area into management zones where appropriate;
 - c. A management strategy for each of the zones, including the adoption of an 'Assisted Natural Regeneration' approach;
 - d. A schedule of local native plant species to be used for planting (if required under offsetting arrangements pursuant to Condition 28);
 - e. A program of works to be undertaken to remove invasive weed species (noxious and environmental weeds);
-

- f. A schedule of timing of proposed works that reflects both the short term (developer's responsibility) and long term (future landholder's responsibility) establishment and management of the identified ecological restoration areas;
- g. A schedule of activities not permitted within the Proposed Environment Covenant B pursuant to Condition 77;
- h. Requirement for 132C Licence under the National Parks and Wildlife Act
- i. Coordination of services such as irrigation repair or civil infrastructure maintenance (such as stormwater) that may impact on the landscape establishment and maintenance periods;
- j. Management of domestic farm/feral animals (if appropriate) and any fencing/signage requirements to restrict access and increase landholder/public awareness;
- k. Nomination of key performance indicators/criteria for monitoring purposes;
- l. A maintenance, monitoring and reporting schedule with developer commitment for a period not less than two (2) years; and
- m. An adaptive management statement detailing how potential problems arising may be overcome and requiring approval of the General Manager or delegate for such changes.

To be clear the developer is responsible for a two (2) year establishment phase for all identified 'ecological restoration areas'. Following successful completion of works within this period the existing/future landowner/s of Lot 33 shall be responsible for the long term management of the 'Environment Covenant' in perpetuity. This management arrangement shall be reflected in the HRP.

The HRP must be approved by the General Manager or delegate prior to issue of the first of any construction certificate.

In this regard the establishment phase works proposed in the HRP must be completed prior to issue of the first subdivision certificate with a progress report prepared by a suitably qualified and experienced Bush Regenerator, submitted one year after commencement of the establishment phase works with a final report demonstrating compliance with the HRP prior to issue of the subdivision certificate.

[PCCNS04]

26. To evaluate and quantify the extent of vegetation removal necessary to facilitate installation of any external stormwater infrastructure within the Crescent Street road reserve the applicant shall provide a detailed survey plan with particulars of all native woody vegetation greater than 30cm circumference at 45cm above ground, or greater than three (3) metres or more in height occurring within and immediately adjacent to the construction footprint. The tree survey shall be overlaid on Dwg. No. P019 Issue A Outlet Arrangement Plan dated 13 September 2013 prepared by Knobel Consulting P/L or similar plans as amended in accordance with conditions of this consent. The survey information and any associated best practice vegetation management measures as required by Council shall be submitted as an addendum to the Flora and Fauna Management Plan Lot 1 DP407094 & Part Lot 1 DP598073 Version 2 dated June 2013 prepared by Habitat Environment Management Trading P/L.

The loss of any surveyed native vegetation shall be offset at a ratio of 2:1 (Replace : Loss) using suitable tube-stock species to be installed with an area additional to and adjoining the 'Water Catchment Lake' ecological restoration area. Offsetting

arrangements shall be agreed upon prior to issue of the first of any construction certificate and details subsequently reflected in the 'Habitat Restoration Plan' prior to approval.

27. Conditions and recommendations imposed by the Remedial Action Plan (RAP) required by Schedule "A" of this consent shall be implemented prior to the issue of a construction certificate.
28. Proposed Lots 38 and 39 are to be consolidated into a single allotment to ensure the fragmentation of agricultural land does not occur. All other conditions relating to Lots 38 and 39 are to be implemented on a single allotment.

[PCNS05]

PRIOR TO COMMENCEMENT OF WORK

29. 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]

30. Prior to the commencement of works, the applicant shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with either:-
 - (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
 - (b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
 - (c) WorkCover Regulations 2000

[PCW0025]

31. 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]

32. 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]

33. 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]

34. 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 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

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

[DUR0005]

36. 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]

37. 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]

38. 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.

In addition geotechnical certification is to be provided certifying that unsuitable material has been removed from the southern area of the existing dam and replaced with material adequate for the support and stability of the proposed road and embankment.

[DUR0795]

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

[DUR0815]

40. 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]

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

[DUR0995]

42. 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]

43. Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval and demonstrating.

- (a) That the pavement has been designed in accordance with Tweed Shire Councils Development Design Specification, D2.
- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.
- (c) That site fill areas have been compacted to the specified standard.
- (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR1805]

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

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

[DUR1825]

45. 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.

[DUR1875]

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

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal
- (g) Pathways, footways, cycleways - formwork/reinforcement
- (h) Final Practical Inspection - on maintenance
- (i) Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing

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

Stormwater Quality Control Devices (other than proprietary devices)

For detail refer to Water By Design - Technical Guidelines

- (a) Earthworks and filter media
- (b) Structural components
- (c) Operational establishment
- (d) Mechanical/electrical
- (e) Commissioning - on maintenance
- (f) 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]

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

[DUR1955]

48. 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]

49. The applicant shall obtain the written approval of Council to the proposed road/street names and be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.

Application for road naming shall be made on Councils Property Service Form and be accompanied by the prescribed fees as tabled in Councils current Revenue Policy - "Fees and Charges".

The application shall also be supported by sufficient detail to demonstrate compliance with Councils Road Naming Policy.

[DUR2035]

50. Inter allotment drainage shall be provided to all lots where roof water for dwellings cannot be conveyed to the street gutter by gravitational means.

[DUR2285]

51. Drainage Reserve

- (a) The proposed drainage reserve is to be dedicated to Council at no cost.
- (b) An accurate plan of the proposed drainage reserve shall be submitted to Council 60 days prior to lodgment of Application for Subdivision Certificate to allow the land to be classified.

[DUR2295]

52. All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording in accordance with Councils Development Design and Construction Specifications.

[DUR2355]

53. 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]

54. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR2445]

55. Dust and Erosion Management

- (a) Site earthworks are to be limited to a 5ha maximum at any time to reduce exposed areas. Completed area's are to be topsoiled and seeded immediately to protect them from water and wind erosion.
- (b) All topsoil stockpiles are to be sprayed with dust suppression material such as "hydromulch", "dustex" or equivalent. All haul roads shall be regularly watered or treated with dust suppression material or as directed on site.
- (c) All construction activities that generate dust shall cease when average wind speeds exceed 15m/s (54 km/h). The applicant shall be responsible for the monitoring of on-site wind speeds and be able to produce this data to Council on request.

[DUR2825]

56. The disturbance of rock boulders rolling down the steep sloping terrain during construction is to be mitigated by the inclusion of temporary fencing or earth bunds for ensure site safety and to ensure neighbouring properties are not affected.

[DURNS01]

57. Any disturbance of soil below 5 m AHD is to be carried out in accordance with the Acid Sulfate Soils Management Plan prepared by Geotech Investigations Pty Ltd and dated 21 March 2013, except where as varied by this consent.
58. The implementation of the Acid Sulfate Soils Management Plan is to be the responsibility of the Site Manager.
59. Where a RAP is required in accordance with Schedule A of this consent, all works are to be carried out in accordance with the RAP, to the satisfaction of the General Manager or his delegate.
60. During construction, all works are to be carried out in accordance the Council approved construction noise assessment, including recommendations of the construction noise assessment.
61. During construction, all works are to be carried out in accordance the Council approved dust management plan.
62. All demolition works are to be carried out in accordance with the Council approved demolition plan.

[DURNS02]

63. 60 days prior to lodgment of Application for Subdivision Certificate, an accurate plan of the subdivision is to be submitted to Council indicating all public land to be dedicated to Council (including Drainage Reserves, Sewer Pump Stations, Parks, Sports Fields, Conservation Areas and other lands as defined and excluding Roads, etc). The function of all such public land is to be indicated to allow classification of the land parcel by Council as either Operational or Community Land, as detailed in the Local Government Act 1993.

[DURNS03]

64. All operations must comply with the fauna and flora management measures as outlined in the Flora and Fauna Management Plan Lot 1 DP407094 & Part Lot 1 DP598073 Version 2 dated June 2013 prepared by Habitat Environment Management Trading P/L unless otherwise amended and approved by Council's General Manager or modified as a result of conditions of this approval. In the event that any threatened species, populations, ecological communities or their habitats not addressed in the report are discovered during operations, appropriate Plans of Management for those species must be formulated to the satisfaction of the General Manager or delegate. No further operational works will take place until the Plan(s) of Management is/are approved.

[DURNS04]

USE

65. The development shall be carried out in accordance with the provisions of the acoustic report as per Schedule A of this consent, to the satisfaction of the General Manager or his delegate.

[USENS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

66. 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]

67. 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 DSP5:	35 ET @ \$12575 per ET	\$440125
Sewer Kingscliff:	35 ET @ \$6042 per ET	\$211470

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

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

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

[POC0675/PSC0165]

68. 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:

227.5 Trips @ \$1176 per Trips \$267540

(\$1137 base rate + \$39 indexation)

S94 Plan No. 4

Sector6_4

(b)	Open Space (Casual):	
	35 ET @ \$543 per ET	\$19005
	(\$502 base rate + \$41 indexation)	
	S94 Plan No. 5	
(c)	Open Space (Structured):	
	35 ET @ \$622 per ET	\$21770
	(\$575 base rate + \$47 indexation)	
	S94 Plan No. 5	
(d)	Shirewide Library Facilities:	
	35 ET @ \$838 per ET	\$29330
	(\$792 base rate + \$46 indexation)	
	S94 Plan No. 11	
(e)	Bus Shelters:	
	35 ET @ \$64 per ET	\$2240
	(\$60 base rate + \$4 indexation)	
	S94 Plan No. 12	
(f)	Eviron Cemetery:	
	35 ET @ \$123 per ET	\$4305
	(\$101 base rate + \$22 indexation)	
	S94 Plan No. 13	
(g)	Community Facilities (Tweed Coast - North)	
	35 ET @ \$1389 per ET	\$48615
	(\$1305.6 base rate + \$83.4 indexation)	
	S94 Plan No. 15	
(h)	Extensions to Council Administration Offices & Technical Support Facilities	
	35 ET @ \$1860.31 per ET	\$65110.85
	(\$1759.9 base rate + \$100.41 indexation)	
	S94 Plan No. 18	
(i)	Cycleways:	
	35 ET @ \$473 per ET	\$16555
	(\$447 base rate + \$26 indexation)	
	S94 Plan No. 22	

(j)	Regional Open Space (Casual)	
35 ET @ \$1091 per ET		\$38185
(\$1031 base rate + \$60 indexation)		
S94 Plan No. 26		
(k)	Regional Open Space (Structured):	
35 ET @ \$3830 per ET		\$134050
(\$3619 base rate + \$211 indexation)		
S94 Plan No. 26		

[POC0395/PSC0175]

69. 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 Council's fees and charges current at the time of payment) which will be held by Council for a period of 6 months from the date on which the plan of subdivision is registered.

It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

70. Prior to the issue of a Subdivision Certificate, a performance bond equal to 25% of the contract value of the footpath construction works shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths are built on.

Alternatively, the developer may elect to pay a cash contribution to the value of the footpath construction works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.

[PSC0225]

71. 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]

72. 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]

73. 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]

74. 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]

75. 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) A restriction to user for a 30m wide separation buffer is required on proposed Lot 38 as per the Land Use Conflict Management Strategy prepared by Place Design Group Pty Ltd and dated 16 August 2013. The restriction to user is to state that no agricultural activities are to occur within the 30m wide buffer and is to be maintained in perpetuity, burdening proposed Lot 38 and benefiting proposed Lots 6 through to Lot 14.
- (c) A positive covenant for a 10m wide vegetated buffer is required on proposed Lot 38 as per the Land Use Conflict Management Strategy prepared by Place Design Group Pty Ltd and dated 16 August 2013. The vegetated buffer is to be maintained in perpetuity, burdening proposed Lot 38 and benefiting proposed Lot 6 through to Lot 14 inclusive.
- (d) A positive covenant is required to maintain a 1.8m acoustic fence constructed with lapped-style timber or equivalent in perpetuity on proposed Lot 38 as per the Land Use Conflict Management Strategy prepared by Place Design Group Pty Ltd and dated 16 August 2013. The covenant is to burden proposed Lot 38 and benefit proposed Lot 6 through to Lot 14 inclusive.
- (e) A positive covenant is required for future dwellings on proposed Lot 6 through to Lot 14 inclusive requiring the design of future dwellings on these allotments to be air conditioned and capable of having all doors and windows fully closed.
- (f) A positive covenant is required for agricultural activities conducted on proposed consolidated Lots 38 & 39. The positive covenant is to state that agricultural activities are to be carried out in accordance with the Farm Management Practices prepared by Wilson's Commercial Real Estate and dated 7 August 2013. These agricultural activities may include pesticide spraying, which is regulated under the Pesticides Act 1999. Agricultural activities may only be

carried out during daylight hours. The positive covenant is to burden proposed consolidated Lots 38 and 39.

- (g) A restriction to user is required for a future dwelling on proposed Lot 33 stating that a residential dwelling may only be constructed on the southern half of proposed Lot 33.
- (h) Restriction as to user regarding the 'Proposed Environment Covenant B - 424m²' shown on Plan No 1 Rev. O Proposed Subdivision dated 13 September 2013 prepared by Bennett & Bennett - this area must be subject to an approved ecological restoration program (undertaken in accordance with an approved habitat restoration plan) and managed as a natural area for conservation purposes in perpetuity.
- (i) Restriction as to user regarding the 'Proposed Environment Covenant B - 424m²' shown on Plan No 1 Rev. O Proposed Subdivision dated 13 September 2013 prepared by Bennett & Bennett - The following activities are not permitted within this area:
 - i. Clearing, lopping or removal of any native plants, whether existing at the date of this approval or planted pursuant to conditions of this approval unless otherwise approved by Council's General Manager or delegate;
 - ii. Erection of any fixtures or improvements, including buildings or structures;
 - iii. Construction of any trails or paths;
 - iv. Depositing of any fill, soil, rock, rubbish, ashes, garbage, waste or other material foreign to the protected area;
 - v. Keeping or permitting the entry of domestic animals or any other animals that are not indigenous to the Covenant Area; and
 - vi. Performance of any other acts which may have detrimental impact on the values of the Covenant Area. The area must be managed in accordance with the approved habitat restoration plan for the life of the development and the use of the premises.

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]

76. 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]

77. 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]

78. 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]

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

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

Note:

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

[PSC0915]

80. The six months Defects Liability Period commences upon the registration of the Plan of Subdivision.

[PSC0925]

81. A formal asset handover of all water quality control devices is to be implemented at the completion of the maintenance period ("Off Maintenance"), whereby all relevant stakeholders will inspect the device and be issued with a current operational manual for the device.

[PSC1025]

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

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

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

[PSC1065]

83. Prior to the release of the subdivision certificate the proponent shall:

- (a) Dedicate the proposed drainage reserve at no cost to Council.
- (b) Submit an accurate plan of the proposed drainage reserve to Council 60 days prior to lodgement of Application for Subdivision Certificate to allow the land to be classified.

[PSC1075]

84. 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]

85. 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]

86. 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. 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]

87. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Council within three months of registration of the Subdivision Certificate in accordance with the Survey Practices Regulation.

[PSCNS01]

88. Documentary evidence is to be provided that the right of carriageway and footway plus any existing unnecessary easements no longer required are extinguished prior to the issue of a Subdivision Certificate.

[PSCNS02]

89. Prior to the issue of the subdivision certificate the vegetated buffer is to be established on Lot 38 in accordance with the approved landscape plan.

90. Prior to the issue of the subdivision certificate the acoustic fence is to be constructed on Lot 38 in accordance with the Land Use Conflict Management Strategy prepared by Place Design Group Pty Ltd and dated 16 August 2013. The acoustic fence is to be at least 1.8 m high, constructed with lapped-style timber or equivalent.

[PSCNS03]

91. The developer is to undertake care and maintenance operations on all streetscapes and public open space for a minimum of 12 months after the Subdivision is registered with the Land Titles Office. This is the establishment period for new plantings. Such maintenance will include all soft landscaping, particularly mowing and weed control. Any power and water consumption costs during this period must also be met by the developer.

[PSCNS04]

92. 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 any Subdivision Certificate. The bond shall be held by Council for a minimum period of 12 months from the date of issue of the Subdivision Certificate (or longer if required by the approved Landscaping Plan) 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.

93. Prior to issue of a Subdivision Certificate, Work as Executed Plans (WAX) must be submitted for the streetscape. These must show all plantings, footpaths and underground services. The plans are to be certified by a registered surveyor or consulting engineer.

Two categories of WAX plans are to be provided:

- a) The original approved plan with any variation to this indicated.
- b) Plan showing only the actual as constructed information.

The plans are to be submitted in the following formats:

- a) 2 paper copies of the same scale and format as the approved plan.

- b) A PDF version on CD or an approved medium.
 - c) An electronic copy in DWG or DXF format on CD or an approved medium.
94. Environmental restoration works shall be completed to a level specified in the approved Habitat Restoration Plan prior to the release of the subdivision certificate and shall be maintained at all times in accordance with the approved Plan.
95. The final Habitat Restoration Plan report is to be approved by the General Manager or delegate prior to release of the first subdivision certificate.

The Amendment was **Lost**

FOR VOTE - Cr P Youngblutt, Cr W Polglase

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

ABSENT, DID NOT VOTE - Cr C Byrne

The Motion was **Carried** (Minute No 722 refers)

FOR VOTE - Cr P Youngblutt, Cr W Polglase

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

ABSENT, DID NOT VOTE - Cr C Byrne

Cr C Byrne has returned from temporary absence at 08:47 PM

23 [PR-CM] Development Application DA13/0189 for a 22 Lot Subdivision and Associated Intersection Upgrade to Creek Street and Tweed Coast Road at Lot 156 DP 628026 No. 40 Creek Street, Hastings Point

Cr P Youngblutt has temporarily left the meeting at 08:47 PM due to a non-significant, non-pecuniary Conflict of Interest. The nature of the interest is Cr P Youngblutt has a family association with the property the subject of this report. Cr P Youngblutt will manage the conflict by leaving the Chamber and taking no part in the discussion or voting.

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Cr K Milne

Cr G Bagnall

RESOLVED that Development Application DA13/0189 for a 22 lot subdivision and associated intersection upgrade to Creek Street and Tweed Coast Road at Lot 156 DP 628026 No. 40 Creek Street, Hastings Point be refused for the following reasons:

1. The application fails to satisfy the principal aim of the Tweed Local Environmental Plan 2000 (Clause 4) which is to ensure "*The management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is enhanced.*" The proposed development fails to adequately consider the sites' sensitive ecological environment and would result in a development which does not respond to the existing character of the area.

2. The development as proposed is not considered to have adequate regard for the Ecologically Sustainable Development provisions as outlined in Clause 5 the Tweed Local Environmental Plan 2000.
3. The development as proposed does not satisfy Clause 8(1) or 8(2) of the Tweed Local Environmental Plan 2000 as the development does not satisfy the 2(e) Residential Tourist zone objective (as there is no tourist component), does not satisfy the 7(a) Environmental Protection (Wetlands and Littoral Rainforest) zone objectives (by fragmenting environmental land) does not satisfy the 7(l) Environmental Protection (Habitat) zone objectives (as a result of the entry road off Creek Street) and is considered to have an unacceptable cumulative impact in regards to local character, ecology and local drainage and flooding matters.
4. The development as proposed does not satisfy Clause 20(2) of the Tweed Local Environmental Plan 2000 in regards to the minimum allotment size for land zoned 7(a) as Lot 14 has 7(a) land that has been unnecessarily fragmented from proposed Lot 7.
5. The development as proposed does not satisfy Clause 34 of the Tweed Local Environmental Plan 2000 in regards to flooding. Adequate information has not been received to ensure that the proposed fill will not have an unreasonable impact on the adjoining properties in the locality.
6. The development as proposed does not satisfy Clause 39 of the Tweed Local Environmental Plan 2000 in regards to contaminated land. Adequate information has not been received to ensure that the proposed site is free of contaminants. A Preliminary Soil Contamination Report would be required which specifically considered possible historic sand mining activities.
7. The development as proposed does not satisfy Clause 39A of the Tweed Local Environmental Plan 2000 in regards to bushfire protection. The subdivision as proposed is not capable of compliance with the NSW Rural Fire Service General Terms of Approval as the subdivision does not have 8m wide road pavement or 12 metre cul-de-sac areas and fails to satisfy the Planning for Bushfire Protection Guidelines 2006.
8. The development as proposed does not satisfy the various environmental and ecological controls applicable to the subject site. The ecological assessment relies on outdated 2008 vegetation mapping and 2006-2008 fauna survey results. This leads to significant uncertainty as to the extent and level of cumulative impact on threatened species and Endangered Ecological Communities.
9. The development as not clearly articulated the impact of extensive site filling and subsequent modification to overland flow and groundwater conditions on sensitive and/or dependant floodplain communities of significant conservation value.
10. The size of the development footprint and resultant inadequate buffers to Endangered Ecological Communities (EEC), riparian vegetation and Christies Creek, results in an overdevelopment of such a sensitive and significant site.
11. The development does not satisfy the provisions of DCP Section A5 - Subdivision Manual having regard to environmental constraints, stormwater runoff, drainage, waterways, flooding, buffers, lot layout, landscape character and natural landform.
12. The development does not satisfy the provisions of Tweed Development Control Plan Section B23 Hastings Point having regard to local character, the sites ecological sensitivities and the visual implications of the development.

13. The proposed development is not in the public interest and has failed to adequately address the concerns raised in the public submissions received following public notification of the proposal.

The Motion was **Carried**

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

AGAINST VOTE - Cr W Polglase, Cr C Byrne

ABSENT. DID NOT VOTE - Cr P Youngblutt

Cr P Youngblutt has returned from temporary absence at 08:49 PM

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

<p>The following motion at Minute No 725 was LOST. Refer to Minute No 726 for the resolution</p>
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725

**Cr W Polglase
Cr P Youngblutt**

PROPOSED that Development Application DA13/0247 for a dual use of existing dwelling (tourist accommodation) at Lot 21 DP 1030322 No. 39 Collins Lane, Casuarina be refused for the following reasons:

1. The development does not satisfy Section 79C of the Environmental Planning and Assessment Act, particularly Section (a)(ii) – *the provisions of any Draft Environmental Planning Instruments* in that the development is prohibited within the R2 Low Density Residential zone.
2. The development does not satisfy Section 79C of the Environmental Planning and Assessment Act, particularly Section (a)(ii) – *the provisions of any Draft Environmental Planning Instruments* in that the development is inconsistent with the objectives of the R2 Low Density Residential zone.
3. The development is not considered to be in the public interest.

Cr G Bagnall temporarily left the meeting at 08:51 PM.

Cr G Bagnall has returned from temporary absence at 08:52 PM

The Motion was **Lost**

FOR VOTE - Cr W Polglase

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

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

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**Cr M Armstrong
Cr C Byrne**

RESOLVED that Development Application DA13/0247 for a dual use of existing dwelling (tourist accommodation) at Lot 21 DP 1030322 No. 39 Collins Lane, Casuarina be approved with the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and modified dwelling plans as follows:
 - Sheet 1 of 5 (Ground Floor Plan) as amended in red, prepared by J J Dixon and dated May 2013
 - Sheet 2 of 5 (Top Floor Plan) as amended in red, prepared by J J Dixon and dated May 2013
 - Sheet 3 of 5 (Front & North Elevations/Sections B-B & C-C) as amended in red, prepared by J J Dixon and dated May 2013
 - Sheet 4 of 5 (East & South Elevations) as amended in red, prepared by J J Dixon and dated May 2013
 - Sheet 5 of 5 (Site Plan) as amended in red, prepared by J J Dixon and dated May 2013,except where varied by the conditions of this consent.

[GEN0005]
2. Advertising structures/signs to be the subject of a separate development application (where statutorily required).

[GEN0065]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0115]
4. Use of the existing dwelling for short term tourist accommodation purposes shall be restricted to one single booking at any time which may consist of a maximum of four adults and six children.

[GENNS01]
5. The keeping of dogs, cats or other animals at the premises by tourist accommodation groups is strictly prohibited.

[GENNS02]
6. A visitor log book shall be maintained as a record of the tourist accommodation use specifying names of visitors with dates and duration of stay. This log book is to be presented to Council no later than 31 July of each year for inspection purposes.

[GENNS03]

7. All carparking associated with the tourist accommodation use is to be located within the property boundary of the subject site.
[GENNS04]
8. A building certificate application is to be lodged within 30 days of the date of the consent to cover alterations to the existing dwelling as highlighted in the approved plans.
[GENNS05]
9. A Plan of Management is to incorporate and convey a clear understanding of the terms and conditions of short term tourist accommodation use consistent with the conditions of this development consent and existing S88B restrictions on the use of the land. A copy of the Plan of Management shall be submitted to Council for approval by the General Manager or delegate prior to first use of the dwelling for the purposes of short term tourist accommodation and subsequent to any future amendments being made to the document.
[GENNS06]
10. This development consent authorises a change of use from 100% residential use to a flexible use for either short term tourist accommodation or residential use.
[GENNS07]
11. The keeping of dogs, cats or other animals on the property for residential purposes is to be in accordance with any relevant Section 88B Instrument requirements.
[GENNS08]
12. All landscaping is to comply with the S88B instrument pertaining to the site.
[GENNS09]
13. A 24 hour contact (name and contact details) shall be made available to Council and to residences within a 100m radius of the subject site prior to the first use of the dwelling for the purposes of short term tourist accommodation to address issues that may arise as a result of tourist accommodation tenancies.
[GENNS10]

USE

14. 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]
15. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer.
[USE0245]
16. The premises shall be maintained in a clean and tidy manner.
[USE0965]
17. Four off street car parking spaces shall be provided to cater for the tourist accommodation use, including parking for the disabled where applicable.
[USENS01]

18. A current hard copy of the Council approved Plan of Management (Tenancy Agreement Management Policy) shall be kept at the premises at all times and be made available to tourist accommodation groups at the time of booking or upon request.

[USENS02]

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

1. At the commencement of the development and in perpetuity the entire property 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'.
2. An emergency and evacuation plan addressing section 4.2.7 of 'Planning for Bush Fire Protection 2006' shall be prepared for the subject site. A copy of the plan shall be provided to the consent authority prior to the issue of an occupation certificate.
3. The existing building is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.
4. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

The Motion was **Carried**

FOR VOTE - Unanimous

25 [PR-CM] Development Application DA13/0221 for a Pontoon Boat and Water Sports Boat Operation on the Tweed River from Fingal Boat Ramp with Passenger Pick Up/Set Down from Beach at Old Barney's Point Bridge Jetty at Lot 403 DP 755740 Main Road Fingal Head;

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**Cr K Milne
Cr G Bagnall**

RESOLVED that Development Application DA13/0221 for a Pontoon Boat and Water Sports Boat Operation on the Tweed River from Fingal Boat Ramp with Passenger Pick Up/Set Down from Beach at Old Barney's Point Bridge Jetty at Lot 403 DP 755740 Main Road Fingal Head; Lots 9 and 10 DP 24164; Lots 9-12 DP 830655 Nos. 2-12 Chinderah Bay Drive, Chinderah and Tweed River, Tweed Heads be refused for the following reasons:

1. Pursuant to Section 5 Objects of the Environmental Planning & Assessment Act 1979 (as amended), the proposed development cannot be determined to satisfy sub section (a)(ii), the orderly and economic use and development of the land.

The proposal has the ability to impact negatively upon adjacent land; accordingly the proposal is not identified as satisfying the Objects of the Environmental Planning &

Assessment Act 1979.

2. Pursuant to Section 5 Objects of the Environmental Planning & Assessment Act 1979 (as amended), the proposed development cannot be determined to satisfy sub section (a)(vi), the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats.

The proposal has the ability to impact upon the protection and conservation of native animals and plants; accordingly the proposal is not identified as satisfying the Objects of the Environmental Planning & Assessment Act 1979.

3. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed development is not considered to be compliant with Environmental Planning Instruments.

The proposed development is inconsistent with the aims of:

State Environmental Planning Policies:

- SEPP 14: Coastal Wetlands
- SEPP 64: Advertising and Signage (Clauses 10 and 27)
- SEPP 71: Coastal Protection (Clause 8(a), (d), (g), (h), (k), (l), (n) and (p)(i))
- NCREP: Clauses 15, 32B, 75 and 76

The proposed development does not satisfy the provisions contained within:

The Tweed LEP 2000:

- Clause 4: Aims of this plan
- Clause 5: Ecologically sustainable development
- Clause 8(1): Consent Considerations
- Clause 11: Zoning
- Clause 13: Development of uncoloured land on the zone map
- Clause 25: Development in Zone 7(a) Environmental Protection (Wetlands and Littoral Rainforests) and on adjacent land
- Clause 29: Development adjacent to Zone 8(a) National Parks and Nature Reserves
- Clause 31: Development adjoining waterbodies

4. The proposal is inconsistent with the applicable management plans that highlight the need to protect ecology and reduce erosion within the vicinity of the Tweed River.
5. Pursuant to Section 79C (1) (c) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed site is not considered suitable for the proposed development.

The use of unzoned land adjacent to environmental conservation areas of State significance for the purposes of water sports boat operation is considered unacceptable due to its possible impact on and loss of habitat, due to river erosion.

6. Pursuant to Section 79C (1) (b) of the Environmental Planning & Assessment Act 1979 (as amended) due to the likely impacts of the proposed development, including environmental impacts on both the natural and built environments, and social and

economic impacts in the locality.

The proposed development would have an unacceptable impact with respect to amenity and noise impacts on surrounding residents and other passive recreational river users as well as having an unacceptable negative impact on cumulative river erosion in the operational area.

7. In accordance with Section 79C (1) (e) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed development is not considered to be in the public interest.

It is in the broader general public interest to enforce the standards contained within the Tweed LEP 2000 specifically as it relates to the objectives of unzoned land and the 1(b2) Agricultural Protection, 2(a) Low Density Residential, 3(d) Waterfront Enterprise, 4(a) Industrial, 5(a) Special Uses, 6(a) Open Space, 6(b) Recreation, 7(a) Environmental Protection (Wetlands and Littoral Rainforests), 7(d) Environmental Protection (Scenic/Escarpment) and 8(a) National Parks and Nature Reserves zones.

8. The development does not satisfy Section 79C of the Environmental Planning and Assessment Act, particularly Section (a)(ii) - *the provisions of any Draft Environmental Planning Instruments* in that the development is prohibited within the RE1 Public Recreation, W3 Working Waterways, W2 Recreational Waterways and SP2 Infrastructure zones.
9. The development does not satisfy Section 79C of the Environmental Planning and Assessment Act, particularly Section (a)(ii) - *the provisions of any Draft Environmental Planning Instruments* in that the development is inconsistent with the objectives of the RE1 Public Recreation, W3 Working Waterways, W2 Recreational Waterways and SP2 Infrastructure zones.

The Motion was **Carried**

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

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

- 26 [PR-CM] Development Application DA13/0397 for an Extension to Existing Car Park at Lot 2 DP 1059784 No. 16 Pearl Street, Kingscliff and Lot 100 DP 1071633 No. 24-26 Pearl Street, Kingscliff**

Cr W Polglase temporarily left the meeting at 08:59 PM.

Cr W Polglase has returned from temporary absence at 09:01 PM

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**Cr M Armstrong
Cr K Milne**

RESOLVED that Development application DA13/0397 for an extension to existing car park at Lot 2 DP 1059784 No.16 Pearl Street, Kingscliff and Lot 100 DP 1071633 No.24-26 Pearl Street, Kingscliff be refused for the following reasons:

1. Pursuant to Section 5 Objects of the *Environmental Planning and Assessment Act* 1979 (as amended), the proposed development cannot be determined to satisfy subsection (a)(i), promoting the social and economic welfare of the community.

The impact of the proposed development on Kingscliff, in particular the school community of St Anthony's Primary School, Kingscliff, of the substantial reduction in playing fields and green areas has not been adequately justified.

2. Pursuant to Section 79C(1)(b) of the *Environmental Planning and Assessment Act* 1979 (as amended) the proposed development has not demonstrated acceptable impacts on the built environment.

The development is considered to have a negative impact on the amenity of St Anthony's Primary School, Kingscliff particularly arising from the substantial reduction in playing fields and green areas for student use.

3. Pursuant to Section 79C(1)(e) of the *Environmental Planning and Assessment Act* 1979 (as amended) the proposed development is contrary to the public interest.

The development is considered to be contrary to the public interest through the substantial reduction in St Anthony's Primary School playing fields and green areas for student areas which will reduce the opportunity for the student body to engage in physical activity, engage in health promoting activities arising from physical activity, and poses a significant risk for increasing obesity in the student body of St Anthony's Primary School Kingscliff.

Cr K Milne temporarily left the meeting at 09:06 PM.

Cr K Milne has returned from temporary absence at 09:07 PM

The Motion was **Carried**

FOR VOTE - Unanimous

27 [PR-CM] Development Application D90/0436.07 for an amendment to Development Consent D90/0436 for the Erection of a Tavern and Nine Shops at Lot 171 DP 629328 No. 28-40 Overall Drive, Pottsville

729

**Cr K Milne
Cr G Bagnall**

RESOLVED that Council determines Development Application D90/0436.07 for an amendment to Development Consent D90/0436 for the Erection of a Tavern and Nine Shops at Lot 171 DP 629328 No. 28-40 Overall Drive, Pottsville be refused for the following reasons in regard to s79C of the Environmental Assessment and Planning Act Section 1:

- (b) The likely negative impacts from the development on the amenity of neighbourhood environment due to existing and ongoing concerns about noise disturbance and anti social behaviour.
- (c) The unsuitability of this proposal due to the close proximity of residential properties.
- (e) The proposal is not in accordance with the public interest as it presents unacceptable impacts on the social amenity of the area and is not in accordance with the orderly economic development of the locality.

The Motion was **Carried**

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

28 [PR-CM] Development Application DA13/0246 for a Three Storey Dwelling and In-Ground Swimming Pool at Lot 598 DP 1076975 No. 40 Marsupial Drive, Pottsville

730

**Cr P Youngblutt
Cr W Polglase**

PROPOSED that Development Application DA13/0246 for a three storey dwelling and in-ground swimming pool at Lot 598 DP 1076975 No. 40 Marsupial Drive, Pottsville 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. 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]
4. In accordance with the Restrictions as to User applying to the land, the applicant/owner shall comply with the following.
 - (a) All trees of the *Banksia integrifolia* species greater than 125mm diameter at a height of 1.5 metres above ground level and those trees in the Koala

Management Plan approved by the Council, and being koala home range trees, primary browse trees and other trees identified in the map detailing the location of koala usage trees which are utilised by koalas as a component of normal ranging patterns, are not to be removed from the lot.

- (b) A minimum clearance of 300 mm shall be maintained between the underside of any fence and the natural ground level except for swimming pool fences which shall maintain a maximum ground clearance of 100 mm.
- (c) All swimming pools installed on each lot burdened shall possess a stout rope (minimum fifty (50) mm diameter) and one end of the rope must be secured to a stable pool side fixture and the other end must trail in the pool at all times.
- (d) This property is burdened as to the type of plant species that can be planted and those that cannot. The owner is directed to conform with the plant species list contained in Part 5.4 *Koala Beach Landscape Species List* of Tweed DCP Section B21 *Pottsville Locality Based Development Code*.
- (e) No dogs or cats shall be kept either permanently or temporarily on each lot burdened or at the Koala Beach Estate.

[GEN0280]

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. Bushfire Asset Protection Zones

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

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

[GEN0320]

7. Bushfire Water and Utilities

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

The occupier of the property is to participate in the Static Water Supply Project initiative of NSW Fire Brigade and make available the water in the swimming pool for use as a static water supply for fire fighting purposes by NSW Fire Brigade or Rural Fire Service.

[GEN0325]

8. Bushfire Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

Construction shall comply with Australian Standard AS3959-2009 'Construction of buildings in Bush Fire-prone areas', Bushfire attack Level (BAL) 12.5 for dwelling.

All Class 10 structures as defined per the Building Code of Australia 2006 attached to or within 10 metres of the habitable building shall be constructed to the same level of construction required for the habitable building in accordance with the requirements of

planning for bushfire protection 2006 and AS3959-2009 ' Construction of buildings in Bush Fire-prone areas'.

[GEN0335]

9. Any surface rainwater which is intercepted by retaining walls shall not be directed onto adjoining properties and shall be conveyed through the subject allotment to the street kerb and gutter.

[GENNS01]

10. The mature eucalyptus tree positioned on the south-east corner of the allotment shall not be removed by the development. Precautions are to be taken during construction to protect the tree including as appropriate barriers around the drip line of the tree and preventing the parking and storing of materials inside the barrier.

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

11. 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]

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

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

[PCC1325]

13. Prior to the issue of a construction certificate a plan of the swimming pool showing the proposed cut and fill levels including retaining walls and interface with the adjoining property boundaries is to be submitted to the Principal Certifying Authority. The plan is to demonstrate no retaining walls or batters exceeding a slope of 1:2 (v:h) or height of 500mm within 900mm of the boundary for cut and 1.5m for fill. The plan must demonstrate suitable means for the drainage and disposal of overflow water to ensure it is not directed onto adjoining properties.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

14. 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]

15. 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]

16. 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]

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

- (a) a standard flushing toilet connected to a public sewer, or

- (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

18. All roof waters are to be disposed of through properly jointed pipes to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2.

[PCW1005]

DURING CONSTRUCTION

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

[DUR0245]

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

[DUR0375]

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

[DUR0395]

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

[DUR0405]

24. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.

[DUR0415]

25. The finished floor level of the building should finish not less than 225mm above finished ground level.

[DUR0445]

26. All cut or fill on the property is to be battered at an angle not greater than 1:2 (v:h) within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan Part A1 to the satisfaction of the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0835]

27. 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]

28. 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]

29. 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]

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

[DUR1945]

31. Swimming Pools (Building)

- (a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 - 2012 & AS 1926.2 -2007, the Swimming Pool Act 1992 and the Swimming Pool Regulation 2008.
- (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.
- (e) Once your pool or spa is complete please register it at www.swimmingpoolregister.nsw.gov.au.

[DUR2075]

32. Backwash from the swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.

[DUR2085]

33. 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]

34. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

- (a) internal drainage, prior to slab preparation;
- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- (c) external drainage prior to backfilling.
- (d) completion of work and prior to occupation of the building.

[DUR2485]

35. Plumbing

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

[DUR2495]

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

[DUR2545]

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

- * 45°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50°C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR2555]

38. No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main.

[DUR2705]

39. Upon completion of the first floor joists a survey certificate is to be provided to the Principal Certifying Authority verifying the development has been constructed to the first floor levels as nominated on the approved plans.

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0205]

41. Prior to the issue of an occupation certificate,

- (a) Certification of termite protection methods performed by the person carrying out the works is to be submitted to the PCA; and
- (b) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:
 - (i) the method of protection; and

- (ii) the date of installation of the system; and
- (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
- (iv) the need to maintain and inspect the system on a regular basis.

[POC0235]

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

[POC0355]

43. 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]

44. Upon completion of the pool the builder is to submit to the Principal Certifying Authority a certificate stating that the "Water Recirculation System" has been installed in accordance with AS 1926.3-2010.

[POC0905]

45. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

46. Prior to issue of an occupation certificate, a survey certificate is to be provided to the Principal Certifying Authority verifying the development has been constructed to the ridge height level as nominated on the approved plans.

[POCNS01]

USE

47. 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]

48. 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]

49. The building is to be used for single dwelling purposes only.

[USE0505]

50. Swimming Pools (Building)

- (a) It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to

the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).

- (b) The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).
- (c) Warning notices required under Part 3 of the Swimming Pool Regulations 2008 shall be maintained at all times.

[USE1295]

51. The swimming pool is not to be used for commercial purposes without prior Development Consent.

[USE1305]

731

AMENDMENT

Cr B Longland
Cr G Bagnall

RESOLVED that Council defers this application for a Workshop and a report to be provided to the December 2013 meeting.

Cr B Longland temporarily left the meeting at 09:22 PM.

Cr B Longland has returned from temporary absence at 09:23 PM

The Amendment was **Carried**

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

Cr C Byrne temporarily left the meeting at 09:25 PM.

The Amendment on becoming the Motion was **Carried** - (Minute No 731 refers)

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

29 [PR-CM] Section 82A Review of Development Application DA12/0498 for the Demolition of Existing Dwelling and Construction of a Three Storey Dwelling at Lot 1 DP 214686 No. 4 Marine Parade, Kingscliff

Cr C Byrne declared a non-significant non-pecuniary interest in Item 29. The nature of this interest is that Cr C Byrne is well known to the landowners. Cr C Byrne will manage the Interest by vacating the Chamber and taking no part in the discussion or voting on the matter.

732

Cr W Polglase
Cr P Youngblutt

RESOLVED that:

- A. Section 82A Review of Development Application DA12/0498 for the Demolition of Existing Dwelling and Construction of a Three Storey Dwelling at Lot 1 DP 214686 No. 4 Marine Parade, Kingscliff be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects as amended, Demolition Work plan prepared by Planit Consulting dated 24th October 2012 and Plan Nos 12656 dwg no 01-15 prepared by RAUNIC design group and dated 14th August 2013, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

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

[GEN0300]

4. The proposed front fence is not to obscure a 2.0m x 2.0m splay adjacent to the driveway in accordance with clause 4.1.2 of Council's 'Driveway Access to Property- Design Specification'.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. 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]

6. A construction certificate application for works that involve any of the following:
 - connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control works

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

- a) Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
- b) Where Council is requested to issue a construction certificate for civil works associated with a subdivision consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under Section 68 of the Local Government Act will then NOT be required.

[PCC1145]

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

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

[PCC1325]

PRIOR TO COMMENCEMENT OF WORK

8. An application is to be made to Council to disconnect the existing building from Council's sewerage system, prior to any demolition work commencing.

[PCW0045]

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

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

- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

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

[PCW0225]

- 11. Residential building work:

- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:

- * in the name and licence number of the principal contractor, and
- * the name of the insurer by which the work is insured under Part 6 of that Act,

- (ii) in the case of work to be done by an owner-builder:

- * the name of the owner-builder, and
- * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

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

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

[PCW0245]

- 13. 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]

14. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land or is likely to effect the integrity of the adjoining land, the person causing the excavation to be made must comply with the following:
- (a) The person must, at the person's own expense:
 - (i) preserve and protect the building/property from damage; and
 - (ii) if necessary, underpin and support the building in an approved manner.
 - (b) The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0765]

15. Dilapidation reports detailing the current general condition including the structural condition of the adjoining buildings/sites, infrastructure and driveway are to be prepared and certified by a suitably qualified and experienced structural engineer. The reports are to be submitted to Council prior to commencement of ANY works on the site.

[PCW0775]

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

[PCW0835]

17. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required. 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]

18. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with

the provisions of AS/NZS3500.3.2. Note All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the Principal Certifying Authority prior to commencement of building works.

[PCW1005]

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

[PCW1065]

DURING CONSTRUCTION

20. 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]

21. 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]

22. 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]

23. 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]

24. 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]

25. 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]

26. 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]

27. Excavation

- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.
- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0425]

28. If the work involved in the erection or demolition of a building:

- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
- (b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.

Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.

Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate/subdivision certificate.

Application shall be made to Tweed Shire Council including associated fees for approval prior to any structure being erected within Councils road reserve.

[DUR0435]

29. The finished floor level of the building should finish not less than 225mm above finished ground level.

[DUR0445]

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

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

[DUR0645]

31. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake the works.

[DUR0675]

32. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan Part A1 to the satisfaction of the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0835]

33. 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]

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 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]

36. 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]

37. 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]

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

[DUR1945]

39. A certificate from a suitably qualified practicing structural engineer shall be submitted to Council and the Principle Certifying Authority within seven (7) days of the site being excavated certifying the adequacy of the sheet piling or other retaining method used to support adjoining properties.

[DUR1965]

40. 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]

41. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

- (a) internal drainage, prior to slab preparation;
- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;

- (c) external drainage prior to backfilling.
- (d) completion of work and prior to occupation of the building.

[DUR2485]

42. Plumbing

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

[DUR2495]

43. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.

[DUR2515]

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

[DUR2545]

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

- * 45°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50°C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR2555]

46. No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main.

[DUR2705]

47. The excavation and retaining work on the site are to be carried out under engineers' direction and supervision as appropriate to ensure that the integrity of adjacent properties and surrounding structures are maintained.

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

48. 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]

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

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

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

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

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

[POC0265]

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

[POC0355]

51. 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]

52. Upon completion of all works on the site and prior to the issue of an Occupation Certificate (including interim) , a further dilapidation report is to be prepared and certified by a suitably qualified and experienced structural engineer detailing the current general condition including the structural condition of the adjoining buildings/sites, infrastructure and roads. The dilapidation reports shall take into consideration the findings of the original reports and shall be provided to Council.

[POC0825]

53. As the development subject of this consent has been identified as having the potential to cause nuisance from the use of the roof terrace this consent is subject to the owner of the subject land creating a positive covenant under section 88E of the (Conveyancing Act 1919) on the following terms PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE.

- *Large gatherings on the roof terrace must occur between the hours of 7.00am and 10.00pm.*
- *Social gatherings will occur at a frequency that is reasonably limited taking into account the impact on adjacent premises.*
- *The provision of music for the social gatherings on the roof terrace will not be amplified.*
- *The landowner shall install planter boxes on the roof terrace and such planter boxes are to be maintained to ensure that a thick vegetative visual screen is established to a level of up to 3.0 metres.*
- *All externally mounted artificial lighting on the roof terrace, including security lighting, is to be shielded to prevent the spill of light or glare onto neighbouring premises.*
- *All external lighting on the roof terrace shall be limited between the hours of 7.00am and 10.00pm.*

- *The times referred to above will refer to the relevant time zone at any given date.*

[POCNS01]

USE

54. 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]

55. All externally mounted artificial lighting on the roof to terrace, 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. The illumination of the roof terrace shall not be permitted before 7am or after 10pm.

[USE0225]

56. The building is to be used for single dwelling purposes only.

[USE0505]

57. No large gatherings are permitted on the roof terrace before 7am or after 10pm. Such events shall be at a frequency that is reasonably limited taking into account the impacts on adjacent premises.

[USENS01]

58. No amplified music is permitted on the roof terrace.

[USENS02]

59. All planter boxes shown on the approved plans are to be maintained so as to promote growth and a thick visual screen. The height of this planter vegetation is to be restricted at 3.0m.

[USENS03]

- B. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-

- (a) personnel matters concerning particular individuals (other than councillors).

The Motion was **Carried**

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

The Motion was Carried on the Casting Vote of the Mayor.

Cr C Byrne has returned from temporary absence at 09:38 PM

***A RECISSION MOTION WAS RECEIVED ON THIS ITEM FROM CRS M ARMSTRONG,
G BAGNALL AND K MILNE***

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

733

**Cr W Polglase
Cr P Youngblutt**

PROPOSED that Council:

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

734

AMENDMENT

**Cr K Milne
Cr G Bagnall**

RESOLVED that Council:

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

accordance with Clause 25AB of the Environmental Planning and Assessment Regulation 2000.

5. Approves the Tweed DCP Section B15 Seabreeze Estate in accordance with the recommendations of this report, except in so far that all references to the alternate site location for the Town Centre (site B) are removed.

The Amendment was **Carried**

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

The Amendment on becoming the Motion was **Carried** - (Minute No 734 refers)

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

31 [PR-CM] Planning Proposal PP10/0007 - Mooball Planning Proposal

Cr P Youngblutt declared a Non-Significant, Non-Pecuniary Interest in this item. The nature of the interest is that Cr P Youngblutt is a member of the Mooball/Burringbar Progress Association. Cr P Youngblutt advised he will remain in the Chambers during discussion and voting on the matter.

735

Cr P Youngblutt
Cr C Byrne

PROPOSED that:

1. The Planning Proposal PP10/0007 relating Lot 2 in DP 534493 and Lot 7 in DP 593200 be updated to align with the preliminary subdivision layout illustrated in the Concept Master plan detailed within Figure 1 of this report;
2. The Planning Proposal, as amended in accordance with Resolution 1 above, be referred to the NSW Department of Planning and Infrastructure requesting a Gateway Determination under Section 56(1) of the *Environmental Planning and Assessment Act 1979*;
3. On receiving an affirmative Determination Notice all outstanding studies and works be prepared and the Planning Proposal finalised, following which it is to be exhibited in accordance with the Determination or where there is no condition or a condition requiring a public notification less than 28 days, for a period not less than 28 days; and,

4. Following public exhibition of the Planning Proposal a report is to be submitted to Council at the earliest time detailing the content of submissions received and how those, if any, issues have been addressed.
5. Prior to any public exhibition of the Planning Proposal a Site Contamination Report demonstrating compliance with the provisions and requirements of State Environmental Planning Policy 55 - Remediation of Land, Clause 6, is to be prepared to Council's satisfaction.

736

AMENDMENT

Cr K Milne
Cr G Bagnall

RESOLVED that:

1. The Planning Proposal PP10/0007 relating Lot 2 in DP 534493 and Lot 7 in DP 593200 be updated to align with the preliminary subdivision layout illustrated in the Concept Master plan detailed within Figure 1 of this report;
2. The Planning Proposal, as amended in accordance with Resolution 1 above, be referred to the NSW Department of Planning and Infrastructure requesting a Gateway Determination under Section 56(1) of the *Environmental Planning and Assessment Act 1979*;
3. On receiving an affirmative Determination Notice all outstanding studies, to include Flood Impact Study (including cumulative impacts), Geotechnical and Slope Stability Assessment and Bushfire Hazard Assessment, and works be prepared and the Planning Proposal finalised, following which it is to be exhibited in accordance with the Determination or where there is no condition or a condition requiring a public notification less than 28 days, for a period not less than 28 days; and,
4. Following public exhibition of the Planning Proposal a report is to be submitted to Council at the earliest time detailing the content of submissions received and how those, if any, issues have been addressed.
5. Prior to any public exhibition of the Planning Proposal a Site Contamination Report demonstrating compliance with the provisions and requirements of State Environmental Planning Policy 55 - Remediation of Land, Clause 6, is to be prepared to Council's satisfaction.
6. Prior to any public exhibition of the Planning Proposals provisions are put in place to protect the existing agricultural land-use pursuits of Lot B and against noise complaints, protection of the existing Right of Way servicing Lot B and for the exclusive use of Lot B, provision of an adequate clear buffer to retain rural amenity for the life of Lot B as a rural Lot and Plan of how the buffer is to be maintained/managed and including during earthworks/construction phase.

The Amendment was **Carried**

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

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

The Amendment on becoming the Motion was **Carried** - (Minute No 736 refers)

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

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

32 [PR-CM] PP11/0002 Pottsville Employment Land - Wastewater Allocation

737

Cr G Bagnall

Cr M Armstrong

RESOLVED that Council endorses the following in respect of the current Planning Proposal (PP11/0002) over Lot 12 DP 1015369, 39 Kudgerie Avenue, Cudgera Creek:

1. The allocation of 4.0 litres per second of waste water within Council's sewer conveyance infrastructure to the Hastings Point Waste Water Treatment Plant and the connection of Lot 12 DP 1015369, 39 Kudgerie Avenue, Cudgera Creek to that system is conditionally supported;
2. The allocation (and connection) of waste water disposal capacity within the Council's system, referred to in Point 1 above, is limited to a period of five years from the making of the amendment to the Tweed Local Environmental Plan within which time a development application for the subdivision of the land for an industrial-based business park must be lodged with the Council;
3. The cost of establishing a connection and any required additional infrastructure to the Council's satisfaction, including the creation of any easement, is to be at no cost to Council;
4. The Planning Proposal (PP11/0002) over Lot 12 DP 1015369, 39 Kudgerie Avenue, Cudgera Creek be prepared on the basis of an appropriate industrial and environmental protection zoning scheme;
5. The additional permitted uses of "Hardware and Building Supplies" and "Garden Centres" be included within the Planning Proposal for the purposes of amending the "Additional Permitted Uses" Schedule of the Tweed Local Environmental Plan; and
6. In accordance with the recommendations of this report the floor area of development falling within the land-use definitions described in Resolution 5 above, be limited to 4000 square metres in the aggregate.

The Motion was **Carried**

FOR VOTE - Unanimous

33 [PR-CM] Combined Planning Proposal (PP13/0003) and Development Application (DA13/0469) for a Highway Service Centre, Chinderah

738

**Cr K Milne
Cr G Bagnall**

RESOLVED that this item be deferred to a Workshop.

The Motion was **Carried**

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

34 [PR-CM] Strategic Planning - Murwillumbah Bowls and Sports Club site - Lot 1 DP 524512, Lot 1 DP 523131, Lot A DP 390347, and Lot 1 DP 250164 Condong Street, Brisbane Street and Commercial Road, Murwillumbah

739

**Cr G Bagnall
Cr K Milne**

RESOLVED that the item be deferred to a Workshop and that the proponent be invited to attend to discuss various options for the subject site.

740

AMENDMENT

**Cr B Longland
Cr W Polglase**

PROPOSED that Council, in respect of Murwillumbah Bowls and Sports Club site - Lot 1 DP 524512, Lot 1 DP 523131, Lot A DP 390347, and Lot 1 DP 250164 Condong Street, Brisbane Street and Commercial Road, Murwillumbah, endorse the following:

1. The preparation of a planning proposal:

2. The landowner be advised of the need to prepare and submit a formal request for a planning proposal; and
3. That any amendments needing to be made to the Tweed Development Control Plan, Section B22 - Murwillumbah Town Centre, are to be carried out concurrently with the planning proposal and community consultation undertaken.
4. ATTACHMENT 1 is Confidential in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:
 - (d) *commercial information of a confidential nature that would, if disclosed:*
 - (i) *prejudice the commercial position of the person who supplied it, or*
 - (ii) *confer a commercial advantage on a competitor of the council, or*
 - (iii) *reveal a trade secret*

The Amendment was **Lost**

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

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

The Motion was **Carried** (Minute No 739 refers)

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

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase

35 [PR-CM] Application for a Site Compatibility Certificate for Seniors Housing Development Lot 13 DP 868620, Cudgen Road Cudgen

741

Cr K Milne

Cr M Armstrong

RESOLVED that Council, in respect of the Application for a Site Compatibility Certificate (SCC) for Seniors Housing Development on premises Lot 13 DP 868620 Cudgen Road, Cudgen, writes to the NSW Department of Planning and Infrastructure advising that Council does not support the site compatibility certificate application due to its conflict with current strategic planning objectives.

The Motion was **Carried**

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

AGAINST VOTE - Cr C Byrne

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

742

**Cr K Milne
Cr M Armstrong**

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

The Motion was **Carried**

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

AGAINST VOTE - Cr C Byrne

743

**Cr B Longland
Cr M Armstrong**

RESOLVED that the meeting continues past 10.00pm.

The Motion was **Carried**

FOR VOTE - Unanimous

ADJOURNMENT OF MEETING

Adjournment for a short break at 10.19pm.

RESUMPTION OF MEETING

The Meeting resumed at 10.27pm

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