



TWEED
SHIRE COUNCIL

Mayor: Cr Warren Polglase

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

Minutes

Planning and Regulation Ordinary Council Meeting Tuesday 15 December 2009

held at Murwillumbah Cultural & Civic Centre
commencing at 4.30pm

COUNCIL'S CHARTER

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

Tweed Shire Council has the following charter:

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

The Meeting commenced at 4.33pm.

IN ATTENDANCE

Cr W Polglase (Mayor), Cr P Youngblutt (Deputy Mayor), Cr Dot Holdom, Cr B Longland, Cr Katie Milne, Cr Kevin Skinner, Cr Joan van Lieshout.

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

DISCLOSURE OF INTEREST

Cr D Holdom declared an Interest under Section 7.16 of the Code of Meeting Practice in Item 13 [PR-CM] S96 Applications D984/0015.04, T4/2794.01 and PN1074.04 to Amend the Three Existing Development Applications (D94/0015, T4/2794 and PN1074) to Facilitate an Amended Caravan Park Layout Comprising 148 Sites (from 180 sites) at Lot 382 DP 755740 and Lot 5 DP 828639 (formerly known as Lot 1 DP 583322) and unnamed road reserve, Pacific Highway, Banora Point (the former Banora Point Caravan Park now known as "RIVER").

The nature of the interest is that Cr D Holdom has an involvement with the local resident action group in relation to this matter.

Cr W Polglase declared an Interest under Section 7.16 of the Code of Conduct in Item 13 [PR-CM] S96 Applications D984/0015.04, T4/2794.01 and PN1074.04 to Amend the Three Existing Development Applications (D94/0015, T4/2794 and PN1074) to Facilitate an Amended Caravan Park Layout Comprising 148 Sites (from 180 sites) at Lot 382 DP 755740 and Lot 5 DP 828639 (formerly known as Lot 1 DP 583322) and unnamed road reserve, Pacific Highway, Banora Point (the former Banora Point Caravan Park now known as "RIVER").

The nature of the interest is that Cr W Polglase's family have an interest in a business of a similar nature in the Tweed Shire.

ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

4 [PR-CM] Development Application DA08/0752 for a Three Storey Dwelling with Double Garage, Double Carport, In Ground Swimming Pool & Courtyard Fencing at Lot 920 DP 880612, No. 12 The Hermitage, Tweed Heads South

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**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Development Application DA08/0752 for a three storey dwelling with double garage, double carport, in ground swimming pool & courtyard fencing at Lot 920 DP 880612, No. 12 The Hermitage Tweed Heads South 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. The sill height of the windows in the southern elevation of the rumpus and theatre are to be increased to be a minimum height of 1.5m above finished floor level or alternatively, fixed frosted glazing is to be provided where permitted by the Building Code of Australia.

[GENNS01]

4. The courtyard fencing and gate is to have a minimum openness ratio of 60%.

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

(a) Vehicular access

[PCC0895]

6. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0945]

7. 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 S68 of the Local Government Act.

- a) Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
- 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 LG Act will then NOT be required.

[PCC1145]

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

[PCC1195]

9. Prior to the release of the construction certificate amended plans are to be submitted to the PCA indicating the sill height of the windows in the southern elevation of the rumpus and theatre are to be increased to be a minimum height of 1.5m above finished floor level or alternatively, fixed frosted glazing is to be provided where permitted by the Building Code of Australia.

[PCCNS01]

10. Prior to the release of the construction certificate detailed plans are to be submitted to the PCA indicating the courtyard fencing and gate will have a minimum openness ratio of 60%.

PRIOR TO COMMENCEMENT OF WORK

11. 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]

12. 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]

13. 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]

14. 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]

15. 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]

- 16. 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]

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

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]

DURING CONSTRUCTION

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

[DUR0005]

- 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. 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]

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

[DUR0415]

26. 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]

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. Landscaping of the site shall be carried out in accordance with the submitted/approved landscaping plans.

[DUR1045]

29. 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]

30. Swimming Pools (Building)
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- (a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 – 2007 & AS 1926.3 -2003. (Refer Council's web site www.tweed.nsw.gov.au)
- (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.

[DUR2075]

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

[DUR2085]

32. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction/demolition.

[DUR2185]

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

[DUR2245]

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 NSW Code of Practice for Plumbing and Drainage.

[DUR2495]

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

[DUR2515]

37. 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]

38. 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:-

- * 43.5°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]

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

[DUR2625]

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. 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]

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. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.

[POC0475]

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

[POC1055]

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. 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]

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

[USE1305]

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

Design and Construction

1. New construction is to comply with Appendix 3 – Site Bush Fire Attack Assessment of *Planning for Bush Fire Protection 2006*. In this regard the following design standards for construction are to be incorporated into the development:
 - a) New construction shall fully comply with Australian Standard AS3959-1999 '*Construction of buildings in bush fire-prone areas*' Level 3 with the exception that any external materials within 19 metres of the western boundary are to be non combustible.
2. Roofing shall be gutterless or have leafless guttering and valleys to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5.
3. Roller doors, tilt-a-doors and the like shall be sealed to prevent the entry of embers into the building.
4. All fencing shall be constructed from non-combustible materials.
5. Glazing within 19 metres of the western boundary shall comply with the following;

Bush fire shutters

Where fitted, bush fire shutters shall —

- (a) be fixed to the building and be non-removable,
- (b) when in the closed position, have no gap between the shutter and the wall, the sill or the head greater than 2mm,
- (c) be readily manually operable from either inside or outside,
- (d) protect the entire window or door assembly,
- (e) be made from non-combustible material,
- (f) where perforated, have—
 - (i) uniformly distributed perforations with a maximum aperture of 2mm, and
 - (ii) a perforated area no greater than 20% of the shutter.

Windows

Windows, including frames, shall have;

- (a) the openable portions screened using a mesh with a maximum aperture of 2mm made of corrosion resistant steel or bronze, and
- (b) the window assemblies protected by a complying bush fire shutter or;
- (c) where window assemblies are not protected by a complying bush fire shutter -
 - (i) Window frames, window joinery and hardware shall be metal.
 - (ii) Hardware fitted externally that supports the sash in its functions of opening and closing shall be metal.
 - (iii) Glazing shall be toughened glass minimum 5mm.
 - (iv) Seals to stiles, head and sills or thresholds shall be manufactured from materials having a Flammability Index no greater than 5.

6. At the commencement of building works 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*'.
7. Water, electricity and gas are to comply with section 4.1.3 of *Planning for Bush Fire Protection 2006*.
8. To aid in fire fighting activities, unobstructed pedestrian access to the rear of the property shall be provided and maintained at all times.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

5 [PR-CM] Development Application DA09/0113 for a Nine (9) Lot Rural Residential Subdivision at Lot 2 DP 866690, No. 161 Cobaki Road, Cobaki

2

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Development Application DA09/0113 for a nine (9) lot rural residential subdivision at Lot 2 DP 866690, No. 161 Cobaki Road, Cobaki be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and
 - Plan No 16901 B (Site Plan) prepared by B & P Surveys and dated 8/5/08
 - Figure 4.0 (Roadworks Layout) prepared by Opus Qantec McWilliam and dated July 2008
 - Figure 6.0 (Road 2 Longitudinal Section) prepared by Opus Qantec McWilliam and dated July 2008
 - Figure 6.1 (Road 2 Longitudinal Section) prepared by Opus Qantec McWilliam and dated July 2008,

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 Subdivision Works Accredited Certifier (SWAC) shall be appointed to assume the responsibility for certifying the compliance of the completed public infrastructure (refer to Development Construction Specification C101.01 for variations).

The SWAC shall be accredited by the Building Professionals Board Accreditation Scheme, 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 approval and issue of any Construction Certificate.

[GEN0275]

6. Native vegetation within land currently zoned 7(d) Environmental Protection (Scenic / Escarpment) must be retained.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

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

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

[PCC0275]

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

[PCC0285]

9. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17^o 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 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 sub-tropical (rainforest) native and exotic 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]

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

[PCC0465]

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

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

[PCC0485]

12. A detailed plan of landscaping is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.

[PCC0585]

13. A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 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]

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

RURAL SEAL

- (a) Construction of a public road that meets or exceeds the following minimum standards: 6m wide carriageway with a 9m radius turning bulb.

Regarding the road cross-section, the applicant is to address the requirements of Council specification D7: Stormwater Quality - particularly D7.05(f). The use of Water Sensitive Urban Design (WSUD) is encouraged for the proposed new road, to soften the impact of the proposed urban-style road in the rural setting. Opportunities exist for avoiding kerb and gutter, improving stormwater management and reducing costs.

Note that for any WSUD features, the following matters must be specifically addressed.;

- A maintenance program is required to be prepared for the full life cycle of any WSUD features, particularly any biofiltration areas.
- Access must be individually addressed for each property, to ensure compatibility with any WSUD features.

INTERSECTIONS

- (b) Construction of a new intersection with Cobaki Road in accordance with AUSTRROADS Pt 5 "Intersections at Grade" giving particular attention to sight distance. All lots are required to have a sealed access driveway per TSC DCP Section A5 - sub-section A5.5.6: "Access to Dwellings".

ACCESS

- (c) All lots are required to have a sealed access driveway per TSC DCP Section A5 - sub-section A5.5.6: "Access to Dwellings".

[PCC0875]

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

[PCC0935]

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

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

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

[PCC0985]

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

- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared 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:
- (i) Shake down area along the haul route immediately before the intersection with the road reserve.
- [PCC1105]
18. 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".
19. Stormwater discharge from the site's primary discharge point, being at chainage 126 along the new road, is to be dispersed to minimise erosion of the downstream depression. Details are to be provided with the construction certificate application.
- [PCC1155]
20. Where water is to be drawn from Councils reticulated system, the proponent shall: -
- Make application for the hire of a Tweed Shire Council metered standpipe including Councils nomination of point of extraction.
 - Where a current standpipe approval has been issued application must be made for Councils nomination of a point of extraction specific to the development.
 - Payment of relevant fees in accordance with Councils adopted fees and charges.
- [PCC1205]
21. The Construction Certificate will not be issued over any part of the site requiring a Controlled Activity Approval until a copy of the Approval has been provided to Council.
- [PCCNS01]
22. Prior to issue of the Construction Certificate, the applicant must submit a Threatened Species Management Plan to the satisfaction of Director Planning and Regulation addressing:
- (a) Proposed measures to protect, propagate and translocate (in accordance with *Guidelines for Translocation of Threatened Plants (SGAP)*) the threatened flora species Red Bopple Nut (*Hicksbeachia pinnatifolia*);

- (b) Proposed measures to be undertaken to avoid any impact upon the threatened fauna species Magpie Goose (*Anseranas semipalmata*) including measures to avoid drainage, sedimentation or pollution of the majority of waterways on the site and measures to ensure new and additional predators are not introduced to the site;
- (c) Details and measures to be undertaken to protect any further threatened species should they be found on site during or prior to construction.

[PCCNS02]

23. Prior to the issue of the Construction Certificate, the applicant must submit a Weed Management Plan to the satisfaction of Director Planning and Regulation addressing the removal of Cocos Palms and any other known environmental weeds from the development area.

[PCCNS03]

PRIOR TO COMMENCEMENT OF WORK

24. 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]

25. 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]

26. 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]

27. 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, documentary evidence that the fill material is free of any contaminants 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 commencement of works.

[PCW0375]

28. Prior to start of works the PCA is to be provided with a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height. The certificate must also address any loads or

possible loads on the wall from structures adjacent to the wall and be supported by Geotechnical assessment of the founding material.

[PCW0745]

29. 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) 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 approval and issue of any Construction Certificate, 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.

[PCW0815]

30. 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]

31. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.
- 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]

32. The proponent shall notify Councils Engineering & Operations Division of intention to commence drawing water in accordance with the requirements of the approval to draw water.

[PCW1045]

DURING CONSTRUCTION

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

[DUR0005]

34. If during construction works any Aboriginal object or relic is disturbed or uncovered, works are to cease and the Department of Environment, Climate Change and Water are to be notified immediately, in accordance with the provisions of the National Parks and Wildlife Act 1974.

[DUR0025]

35. 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]

36. 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} 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} 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]

37. During filling operations,

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

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

and upon completion,

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

[DUR0755]

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.

[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/Occupation Certificate.

[DUR0995]

42. 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]

43. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. Such materials shall either be recycled or disposed of in a manner acceptable to Councils General Manager or his delegate.

[DUR1015]

44. Landscaping of the site shall be carried out in accordance with the submitted/approved landscaping plans.

[DUR1045]

45. 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]

46. 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]

47. 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]

48. 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]

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

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade

- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal
- (g) Final inspections - on maintenance
- (h) Off Maintenance inspection

Stormwater Drainage

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

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

[DUR1895]

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

[DUR1955]

51. 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]

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

[DUR2025]

53. 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]

54. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials.

[DUR2205]

55. 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]

56. 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]

57. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.

[DUR2425]

58. Access to adjoining Lot 1 DP 816914 is to remain open and functional at all times during the construction period.

The existing access driveway to the adjoining property is to be connected to the new road by appropriate footpath crossing treatment.

[DURNS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

59. 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]

60. 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: | |
| 52 Trips @ \$1829 per Trips | \$95,108 |
| ((\$1662 base rate + \$167 indexation) | |
| S94 Plan No. 4 | |
| Sector4_4 | |
| (b) Open Space (Casual): | |
| 8 ET @ \$526 per ET | \$4,208 |
| ((\$502 base rate + \$24 indexation) | |
| S94 Plan No. 5 | |
| (c) Open Space (Structured): | |
| 8 ET @ \$602 per ET | \$4,816 |
| ((\$575 base rate + \$27 indexation) | |
| S94 Plan No. 5 | |
| (d) Shirewide Library Facilities: | |
| 8 ET @ \$374 per ET | \$2,992 |
| ((\$374 base rate + \$0 indexation) | |
| S94 Plan No. 11 | |
| (e) Eviron Cemetery: | |
| 8 ET @ \$131 per ET | \$1,048 |
| ((\$131 base rate + \$0 indexation) | |
| S94 Plan No. 13 | |
| (f) Emergency Facilities (Surf Lifesaving): | |
| 8 ET @ \$113 per ET | \$904 |
| ((\$113 base rate + \$0 indexation) | |
| S94 Plan No. 16 | |
| (g) Extensions to Council Administration Offices
& Technical Support Facilities | |
| 8 ET @ \$1996.8 per ET | \$15,974.40 |
| ((\$1996.8 base rate + \$0 indexation) | |
| S94 Plan No. 18 | |
| (h) Cycleways: | |
| 8 ET @ \$352 per ET | \$2,816 |

	(\$352 base rate + \$0 indexation)	
	S94 Plan No. 22	
(i)	Regional Open Space (Casual)	
	8 ET @ \$855 per ET	\$6,840
	(\$855 base rate + \$0 indexation)	
	S94 Plan No. 26	
(j)	Regional Open Space (Structured):	
	8 ET @ \$2327 per ET	\$18,616
	(\$2327 base rate + \$0 indexation)	
	S94 Plan No. 26	

[PSC0175]

61. Section 94 Contributions

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

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

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

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

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5 prior to the issue of a construction certificate. The contribution shall be based on the following formula:-

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

where:

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

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads
(trip one way)

$\text{\$Unit}$ the unit cost attributed to maintaining a road as set out in Section 7.2 (currently 5.4c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.6

[PSC0185]

62. Prior to the issue of a Subdivision Certificate a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

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

[PSC0215]

63. A bond shall be lodged prior to the issue of the subdivision certificate to ensure that the landscaping is maintained by the developer for a period of 6 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.

[PSC0235]

64. All landscaping requirements shall be completed to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate.

[PSC0485]

65. 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]

66. 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]

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

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

- (a) A restriction to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.3m in vertical height within a zone adjacent to the wall that is equal to the height of the wall.

- (b) Each lot burdened and or benefited by a Type 1 wall as defined in AS4678-2002 Earth Retaining Structures, shall contain a restriction to user advising the landowner of the need to maintain the wall in accordance with that standard.

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

[PSC0785]

68. 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]

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

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

- (b) Restrictions are to be created over Lots 1 to 8 stating that;

- The lot is not connected to a reticulated water service, and that all future owners will need to make alternative arrangements for a potable water supply, and to meet Rural Fire Service requirements.
- The lot is not connected to a reticulated sewer system, and any dwelling to be constructed on the site will need to provide an on-site sewage management system, generally in accordance with the recommendations of the "On-site Sewage Management Design Report" numbered HMC 2008.058, by HMC Environmental Consulting Pty Ltd, dated June 2008.
- Any dwelling to be erected on the site shall be located in the nominated building envelope in accordance with the Preliminary Contaminated Land Assessment Report for Lot 2 DP 866690 Cobaki Road, Cobaki. (prepared by HMC Environmental Consulting Pty Ltd and dated January 2009) Report: HMC 2008.167 and as approved by Development Consent DA09/0113. Alternative dwelling locations can be considered, but will require a contaminated lands investigation and separate approval of Council.

- (c) The existing Restriction-on-Title over the parent property Lot 2 DP 866690 regarding the protection of two Black Walnut (*Endiandra globosa*) trees located in the 7(d) zone - is to be reiterated and created over Lot 6 only. Burden: Proposed Lot 6. Benefit: Tweed Shire Council.

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]

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

[PSC0845]

71. 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]

72. 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.

[PSC0865]

73. 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]

74. 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 - 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]

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

[PSC0925]

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

[PSC0945]

77. 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 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]

78. 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]

79. The production of written evidence from the local electricity supply authority certifying that the reticulation of overhead electricity (rural subdivisions) and energising has been provided to a point no less than 45 metres from the front boundary of each allotment.

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.

[PSC1175]

80. Prior to the issue of a subdivision certificate the applicant shall be issued with approval to operate an onsite sewerage management system under Section 68 of the Local Government Act 1993 for the existing system servicing the existing dwelling located on proposed Lot 9.

[PSCNS01]

81. The existing Right-of-Carriageway encumbering the front of the parent property is to be extinguished as part of the application for a Subdivision Certificate.

[PSCNS02]

GENERAL TERMS OF APPROVAL UNDER THE WATER MANAGEMENT ACT 2000 (Works requiring a Controlled Activity Approval)

Plans, standards and guidelines

1. These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA09/0113 provided by Council and the additional information provided by Allen Patterson with letter dated 28 May 2009.

Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the Department of Water & Energy must be notified to determine if any variations to these GTA will be required.

2. Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the Department of Water & Energy. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the watercourses identified.
3. The consent holder must prepare or commission the preparation of:
- (i) Erosion and Sediment Control Plan
 - (ii) Soil and Water Management Plan
4. All plans must be prepared by a suitably qualified person and submitted to the Department of Water & Energy for approval prior to any controlled activity commencing. The plans must be prepared in accordance with Department of Water & Energy guidelines located at www.naturalresources.nsw.gov.au/water/controlled_activity.shtml.
- (i) Riparian Corridors
 - (ii) Watercourse crossings
5. N/A

Rehabilitation and maintenance

6. The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the Department of Water & Energy.
7. N/A

Reporting requirements

8. The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the Department of Water & Energy as required.

Security Deposits

9. N/A

Access-ways

10. N/A

11. N/A

Bridge, causeway, culverts and crossing

12. The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the watercourses or waterfront land, other than in accordance with a plan approved by the Department of Water & Energy.

13. N/A

Culvert

14. The consent holder must ensure that no materials or cleared vegetation that may obstruct flow, wash into the water body or cause damage to the river banks are left on waterfront land other than in accordance with a plan approved by the Department of Water & Energy.

Disposal

15. N/A

16. The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the Department of Water & Energy.

Drainage and Stormwater

17. The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the Department of Water & Energy. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.

Erosion Control

18. N/A

19. N/A

Excavation

20. The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by the Department of Water & Energy.

Maintaining river

21. N/A

River bed and bank protection

22. The consent holder must clearly mark (with stakes using a GPS or peg out survey), protect and maintain a riparian corridor with a width of 10 metres measured horizontally landward for a distance 10 metres upstream and downstream from the site of the controlled activity (where possible) in accordance with a plan approved by the Department of Water & Energy.

23. N/A

Plans, Standards and Guidelines

- 24. N/A
- 25. N/A
- 26. N/A
- 27. N/A

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

- 1. At the issue of subdivision certificate and in perpetuity, the land surrounding the existing dwelling(s) on proposed Lot 9, to a distance of 10 metres, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- 2. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
- 3. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'. A perimeter road nor a through road are required in this instance.

The Motion was **Carried**

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

6 [PR-CM] Development Application DA09/0460 for a Boundary Adjustment Subdivision at Lot 3 DP 602563; Lot 6, 7 DP 748802, No. 517, 519 and 525 Upper Burringbar Road, Upper Burringbar

3

Cr D Holdom
Cr J van Lieshout

RESOLVED that Development Application DA09/0460 for a boundary adjustment subdivision at Lot 3 DP 602563; Lot 6, 7 DP 748802, No. 519 Upper Burringbar Road Upper Burringbar No. 517, 519 and 525 Upper Burringbar Road, Upper Burringbar be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 2433D1-A3/2 prepared by N.C. White & Associates and dated 15/06/2009, except where varied by the conditions of this consent.
[GEN0005]
- 2. The subdivision is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications.
[GEN0125]

DURING CONSTRUCTION

3. 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]

4. 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]

5. 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]

6. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]

USE

7. 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]

8. All wastes shall be collected, stored and disposed to the satisfaction of the General Manager or his delegate.

[USE0875]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

9. 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]

10. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act must include the following:

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]

11. 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.

[PSC0865]

12. 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]

13. Prior to the issue of the subdivision certificate the applicant shall be issued with an Approval to Operate the existing onsite sewage management systems on proposed lots 10, 11 & 12 under the Local Government Act, 1993, and shall complete all system upgrades or replacements required by such Approvals, to the satisfaction of the General Manager or his delegate.

[PSCNS01]

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

1. At the issue of a subdivision certificate and in perpetuity, the land surrounding the existing dwelling(s) on all proposed lots, to a distance of 10 metres or to their respective property boundaries, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

The Motion was **Carried**

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

7 [PR-CM] Development Application DA07/0022 for a Three (3) Storey Residential Flat Building Containing Five (5) Units at Lot 9 DP 14141, No. 21 Tweed Coast, Road Hastings Point

4

**Cr K Milne
Cr J van Lieshout**

RESOLVED that:

1. Council receives and notes the Land and Environment Court Decision and the possible additional claim for loss and damage which has been lodged by the owner of the land.
2. ATTACHMENT 3 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act, 1993, because it contains information of a confidential nature that would, if disclosed:
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

8 [PR-CM] Draft Companion Animals Management Plan

5

**Cr D Holdom
Cr J van Lieshout**

RESOLVED that: -

1. Council approves the public exhibition of the Draft Companion Animals Management Plan Policy.
2. A further report be submitted to Council following the public exhibition seeking final endorsement of the plan.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

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

6

Cr K Skinner
Cr P Youngblutt

RESOLVED that Council notes the November 2009 Variations to Development Standards under State Environmental Planning Policy No 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

10 [PR-CM] Pottsville Employment Lands - Rezoning Application

7

Cr D Holdom
Cr B Longland

RESOLVED that Council endorses Parts A and B in respect of land affected by Draft Local Environmental Plan No. 85 – Pottsville Employment Land.

PART A – THE REZONING APPLICATION

1. The resolution of 13 June 2006 in respect of preparing a draft Local Environmental Plan on Lot 12 DP 1015369, Lot 4 DP753328, Lot 1 DP 215998 and Lot 1 DP 1080884 is amended to relate to Lot 12 DP 1015369 only comprising the land bounded by a heavy black line identified in Figure 2 – ‘Extent of Draft LEP 85 Area Boundary’ of this report.
2. That item 2, 3 and 4 of the resolution of 13 June 2006 in relation to the preparation of the Draft Local Environmental Plan known as Amendment No.85 as referred to in this report be rescinded.
3. The rezoned land is to be rolled over into the new Local Environmental Plan as Industrial Land in accordance with its designation in the Far North Coast Regional Strategy.

PART B – ALLEGED BREACH OF TWEED LOCAL ENVIRONMENTAL PLAN 2000

3. That the Director of Planning and Regulation refer the alleged breaches of the Tweed Local Environmental Plan relating to vegetation clearing in contravention of the Tweed Tree Preservation Order to Council’s Solicitors for legal advice in respect of ascertaining options in respect of legal proceedings.
4. That the restoration, regeneration, contributory off-set planting and protection of significant vegetation and or areas be included in any rezoning proposal on the land and in any legal proceedings for orders to remedy any established breach of the Tweed Tree Preservation Order.
5. That the fire damage to the ‘scar’ tree sited in the Aboriginal site referred to on the State Aboriginal Heritage Information Management System Register as

“Kudgerie Avenue 1” be referred to the NSW Department of Environment, Climate Change and Water for their information and advice.

6. That the Full Council receives regular briefings and/or updates on the outcome as they come to hand with regard to Part B recommendations 4 and 5 from the General Manager and/or the Director Planning and Regulation.

The Motion was **Carried**

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

AGAINST VOTE - Cr W Polglase

- 11 [PR-CM] Development Application DA09/0385 for a Telecommunications Facility (30 Metre High Monopole and Associated Infrastructure) at Lot 17 DP 778719, No. 19 Meadow Place Uki

8

**Cr B Longland
Cr K Milne**

RESOLVED that this item be deferred pending effective community consultation by the applicant to determine a more suitable site for the telecommunications tower.

The Motion was **Carried**

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

AGAINST VOTE - Cr P Youngblutt

- 12 [PR-CM] Proposal to Amend the Rezoning Timeframe of the Tweed Urban and Employment Land Release Strategy 2009 for the Boyds Bay Garden World Site, Tweed Heads

9

**Cr K Skinner
Cr J van Lieshout**

RESOLVED that:-

1. Council endorses the proposed amendment Table 9-1 of the Tweed Urban and Employment Land Release Strategy (TEULRS) 2009 relating to the staged release of a nominated employment investigation area from medium (10-20 years) to short term (0-10 years), as outlined in the submission received by Council from Planit Consulting on 9 September 2009, relating to the Boyds Bay Garden World site, Lot 10, DP 1084319, Tweed Heads.
2. Approval of Point 1 above will be subject to the proponents providing a more detailed response to the main outstanding issues identified in this report,

including further prior consultation occurring with the key relevant authorities, Tweed Shire Council, Gold Coast Airport and the Roads and Traffic Authority, as part of any future Planning Proposal application to rezone this site.

10

AMENDMENT

Cr K Milne
Cr D Holdom

PROPOSED that:-

1. Council endorses the proposed amendment Table 9-1 of the Tweed Urban and Employment Land Release Strategy (TEULRS) 2009 relating to the staged release of a nominated employment investigation area from medium (10-20 years) to short term (0-10 years), as outlined in the submission received by Council from Planit Consulting on 9 September 2009, relating to the Boyds Bay Garden World site, Lot 10, DP 1084319, Tweed Heads.
2. Approval of Point 1 above will be subject to the proponents providing a more detailed response to the main outstanding issues identified in this report, including further prior consultation occurring with the key relevant authorities, Tweed Shire Council, Gold Coast Airport and the Roads and Traffic Authority, as part of any future Planning Proposal application to rezone this site.
3. The proponent demonstrate a commitment to an enhanced sustainability outcome for any future redevelopment of the site, including elements of the construction and building design, future operational performance and the full life cycle of the development, through the submission of an appropriate sustainable assessment of a development design concept in the form of a draft Development Control Plan (DCP) with any rezoning application, demonstrating proposed measures such as thermal, energy, water, waste, innovation, to the satisfaction of Council.

The Amendment was **Lost**

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

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

The Motion was **Carried** (Minute No 462 refers)

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

AGAINST VOTE - Cr K Milne

- 13 [PR-CM] S96 Applications D94/0015.04, T4/2794.01 and PN1074.04 to Amend the Three Existing Development Applications (D94/0015, T4/2794 and PN1074) to Facilitate an Amended Caravan Park Layout Comprising 148 Sites (from 180 sites) at Lot 382 DP 755740 and

DECLARATION OF INTEREST

Councillors D Holdom and **W Polglase** both declared a non-pecuniary Interest in this item, left the Chamber at 5.10PM and took no part in the discussion or voting.

The nature of the interest is that Cr D Holdom has an involvement with the local resident action group in relation to this matter.

The nature of the interest is that Cr W Polglase's family have an interest in a business of a similar nature in the Tweed Shire.

Cr P Youngblutt (Deputy Mayor) chaired the meeting for this item.

11

Cr K Skinner
Cr J van Lieshout

RESOLVED that:

1. The three S96 Applications D94/0015.04, T4/2794.01 and PN1074.04 for amendments (to facilitate an amended caravan park layout comprising 148 sites from 180 sites) to Development Consents (D94/0015, T4/2794 and PN1074) which all granted approval for part of the former Banora Point Caravan Park at Lot 382 DP 755740 and Lot 5 DP 828639 (formerly known as Lot 1 DP 583322) and unnamed road reserve, Pacific Highway East, Banora Point be approved subject to the three consents being amended to all read as follows:
 1. The description on each development consent should read as follows:

“A CARAVAN PARK AND BUSHFIRE HAZARD REDUCTION WORK”
 2. The conditions on each development consent should read as follows:

GENERAL

1. The caravan park shall have a layout comprising 148 long term sites as detailed within the Statement of Environmental Effects prepared by Planit dated July 2009 and Plan No A0.04 Issue D prepared by Lightwave (as approved by S96 Applications D94/0015.04, T4/2794.01 and PN1074.04 in December 2009) , except where varied by the conditions of this consent.

[GEN0005]
2. Prior to the installation of any structures on the site, the applicant shall obtain an Approval to Operate a Caravan Park under the provisions of Section 68 of the Local Government Act 1993.

[GENNS01]

3. The prior approval of council shall be obtained before the installation of any structures on sites within the Caravan Park. All applications shall be made on the appropriate form and be accompanied with all plans and specifications as required under the provisions of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 and be accompanied by the appropriate fee.
[GENNS02]
4. Prior to the installation of any structure (including manufactured home) on each site, the applicant is to obtain approval in respect of plumbing and drainage work under the provisions of Section 68 of the Local Government Act 1993.
[GENNS03]
5. Prior to the installation of any structure (including manufactured home) on each site, the applicant is to obtain approval in respect of stormwater and drainage work under the provisions of Section 68 of the Local Government Act 1993.
[GENNS04]
6. Prior to the issue of an Approval to Operate a Caravan Park under the provisions of Section 68 of the Local Government Act 1993 the applicant shall obtain an Approval to Operate an On-Site Sewage Management System under the provisions of Section 68 of the Local Government Act 1993 for the existing private sewage ejection pump station and associated sanitary drainage line and any associated attenuation storage vessel in accordance with the conditions as specified in the Approval to Alter/Modify an On-Site Sewage Management System Reference SEP08/0016 dated 11 November 2008.
[GENNS05]
7. Prior to the issue of an Approval to Operate a Caravan Park under the provisions of Section 68 of the Local Government Act 1993 the applicant shall obtain a satisfactory final plumbing inspection and satisfy all the conditions in respect of Sewer Approval No. SEW08/0090.
[GENNS06]
8. The Caravan Park shall be designed, constructed, maintained and operated in accordance with the relevant requirements of Subdivisions 1-8 of Division 3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
[GENNS07]
9. No part of the 7(a) zoned land can be used as part of the approved caravan park. This exclusion of the 7(a) lands includes an exclusion of use as passive recreational space in conjunction with the caravan park. The 7(a) zoned land can only be used to undertake bushfire hazard reduction as required by the conditions of this consent and utility installations once approved as statutorily required.
[GENNS08]
10. Prior to the installation of any structures on the site a non-flammable perimeter fence is to be erected to effectively separate the adjoining

northerly and westerly wetlands from the development. Such fencing is to be of suitable design so as to prevent encroachment or intrusion onto the wetland areas and is to be erected along the full length of the boundary of each lot adjoining Lot 4 DP 828639 and Lot 7010 DP 1069421 and including the present Crown Road Reserve (with owners consent). Where boundary fencing necessitates vegetation removal, such removal must be limited to 3m either side of the boundary in accordance with the provisions of SEPP 14.

[GENNS09]

11. Other than minor vegetation required to be removed strictly for boundary fence provisions, no further removal of SEPP 14 or any other wetland or significant native vegetation or ecological communities including mangroves, saltmarsh, Swamp Oak (*Casuarina glauca*), Swamp Sclerophyll Forest or Littoral Rainforest is permitted without approval from the General Manager or his delegate.

[GENNS010]
12. Asset Protection Zones must be provided wholly within land the subject of the subject applications.

[GENNS11]
13. No temporary or permanent dwelling or private facility or other structure apart from the perimeter road is permitted within 20m of the Mean High Water Mark of the Tweed River.

[GENNS12]
14. Provision must be made for traversable public pedestrian access to and along the foreshore of the Tweed River adjacent the full length of Lot 5 DP 828639 and Lot 382 DP 755740 being the land the subject of this development. A public benefit covenant (benefitting Tweed Shire Council) shall be imposed on the land to accommodate the public pedestrian access prior to installation of any structures on the land.

[GENNS13]
15. No construction or works are to proceed on the Crown road adjacent Lot 5 DP828639 or other Crown lands until due authorisation has been obtained from the Land and Property Management Authority under the Crown Lands Act 1989 for any existing structures and proposed improvements.

[GENNS14]
16. Appropriate easements to the satisfaction of the Land and Property Management Authority (LPMA) must be created with respect to any utilities on Crown land, including but not limited to sewerage pumping station, and to provide access to adjoining Crown lands (by Roads and Traffic Authority and LPMA).

[GENNS15]
17. Prior to issue of an approval to operate the applicant is to prepare a Vegetation Management Plan (as detailed below) for the buffer area to Tweed River.

Furthermore, prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act 2000 from the Department of Environment, Climate Change and Water

(DECCW). Waterfront land for the purpose of this consent is land and material in or within 40 metres of the top of the bank or shore of the Tweed River.

The consent holder must prepare or commission the preparation of a Vegetation Management Plan. All plans must be prepared by a suitably qualified person and submitted to the Department of Environment, Climate Change and Water (DECCW) for approval prior to any controlled activity commencing. The plans must be prepared in accordance with the DECCW guidelines located at:
www.naturalresources.nsw.gov.au/water/controlled_activity.shtml.

The plan should include a Vegetation Management Plan and Riparian Corridors

The consent holder must:

- i) carry out any controlled activity in accordance with approved plans and
- ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and
- iii) when required, provide a certificate of completion to the Department of Environment, Climate Change & Water.

The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the Department of Environment, Climate Change & Water.

The consent holder must establish a riparian corridor along the Tweed River in accordance with a plan approved by the Department of Environment, Climate Change & Water.

[GENNS16]

18. The site is to remain filled to at least the design flood level of 2.8m AHD.

[GENNS17]

GENERAL TERMS OF APPROVAL UNDER THE RURAL FIRE ACT 1997

1. This assessment is based in part upon the advice and recommendations within the Bushfire Threat Assessment Report, prepared by BCA Check Pty Ltd. All recommendations within that report shall be complied with, except where modified below.
2. At the commencement of building works and in perpetuity the existing Crown Road Reserve shall be managed as an inner protection area (IPA) as outlined within Appendices 2 & 5 of *Planning for Bush Fire Protection 2006* and the NSW Rural Fire Service's document *Standards for asset protection zones*.

3. Water, electricity and gas to the proposed dwelling on proposed Lot 101 are to comply with sections 4.1.3 of *Planning for Bush Fire Protection 2006*.
4. Internal roads shall comply with following requirements of section 4.2.7 of *Planning for Bush Fire Protection 2006*.
 - Internal roads are two-wheel drive, sealed, all weather roads.
5. Arrangements for emergency and evacuation are to comply with section 4.2.7 of *Planning for Bush Fire Protection 2006*.

General Advice – consent authority to note

This response recognises the current approval to operate a caravan park on the site within the existing layout. This original approval was issued prior to the implementation of *Planning for Bush Fire Protection* and no bush fire safety authority was issued by the RFS. The proposed modifications as conditioned will however provide a better outcome for the development.

2. ATTACHMENT NOS. 1, 2 AND 3 are CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act, 1993, because it contains information of a confidential nature that would, if disclosed:

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

The Motion was **Carried**

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

AGAINST VOTE - Cr B Longland, Cr K Milne

ABSENT. DID NOT VOTE - Cr D Holdom, Cr W Polglase

Cr D Holdom returned from temporary absence at 05:21 PM

Cr W Polglase returned from temporary absence at 05:21 PM

LATE ITEM

12

Cr D Holdom

Cr P Youngblutt

RESOLVED that Item a13 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

- a13 **[PR-CM] Development Application DA08/0903 for Alterations and Additions to Existing Clubhouse - Fingal Rovers Surf Club at Lot 7011 DP 1065741; Lot 7314 DP 1121228, Marine Parade, Fingal Head**

13

Cr D Holdom
Cr P Youngblutt

RESOLVED that Development Application DA08/0903 for alterations and additions to existing clubhouse - Fingal Rovers Surf Club at Lot 7011 DP 1065741; Lot 7314 DP 1121228, Marine Parade, Fingal Head 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 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 67 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 67 of the Regulations as amended.

- A. Amended plans and relevant structural engineering details are to be submitted to the General Manager or delegate for approval indicating all parts of the proposed building that are seaward of the Immediate Coastal Hazard Zone Line (as identified through the Tweed Coastline Management Plan 2005) are capable of being dismantled at a time of impending coastal inundation.

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 except where varied by the conditions of this consent.
[GEN0005]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0115]
3. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property.
[GEN0135]

4. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.

[GEN0265]

5. Roofwater must be disposed of by infiltration devices, carried out in accordance with Section D7.9 of Tweed Shire Councils Development Design and Construction Specification - *Stormwater Quality*.

[GENNS01]

6. The following works are to be undertaken to ensure that the building is provided with a satisfactory level of fire safety and Building Code of Australia compliance:

- a) The load bearing walls and columns of the existing building are to achieve a minimum FRL of 120/-/- as per Table 4 of Specification C1.1 of the BCA.
- b) The electricity meter board, distribution boards or ducts, central telecommunications distribution boards or equipment, or electrical motors or other motors serving equipment in the building if located in a path of travel shall be enclosed by non-combustible construction or a fire-protective covering with openings suitably sealed against smoke spreading from the enclosure, in accordance with Part D2.7 of the Building Code of Australia.
- c) The floor/ceiling between the ground and first floor is to be upgraded to comply with either of the following—
 - (i) be a floor/ceiling system incorporating a ceiling which has a *resistance to the incipient spread of fire* to the space above itself of not less than 60 minutes; or
 - (ii) have an FRL of at least 30/30/30; or
 - (iii) have a *fire-protective covering* on the underside of the floor, including beams incorporated in it, if the floor is *combustible* or of metal.
- d) All service installations that penetrate through a building element (the floor/ceiling between the ground and first floors) that is required to have an FRL or an incipient spread of fire shall comply with Part C3.15 of the Building Code of Australia.
- e) Emergency lighting and an exit sign shall be provided throughout the building in accordance with Part E4.5 of the Building Code of Australia.
- f) Interconnected automatic smoke detection and alarm system shall be installed in the ground and first floors in accordance with Specification E2.2a – Smoke Detectors and Alarm Systems in accordance with the Building Code of Australia. A certificate from a licensed electrician certifying that the smoke alarms have been connected to the consumer mains power is to be submitted to the PCA.
- g) Fire Hose Reels are to be provided to the building in accordance with AS 2441.

A fire hose reel system must be provided throughout the building in accordance with [AS 2441](#). The fire hose reels are to be located within 4 m of an exit and so that the nozzle end of a fully extended fire hose fitted to the reel and laid to avoid any partitions or other physical barriers will reach every part of the floor of the storey.. BCA Clause E1.4, Australian Standard 2441.

- h) Portable fire extinguishers containing an extinguishing agent suitable for the risk shall be provided throughout the building to the requirements of AS 2444 – 1995.

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. Any placed fill shall be graded at a minimum of 1% so that the site drains to the street or other approved permanent drainage system. The development must at no time result in additional runoff or ponding occurring within neighbouring properties.

All earthworks shall be contained wholly within the subject land, with details submitted with a S68 stormwater application for Council approval.

[PCC0485]

8. Details of the kitchen exhaust system are to be provided and approved prior to release of the Construction Certificate if required. Such details are to include the location of discharge to the air, capture velocity, size and hood and angle of filters. The system shall comply with AS1668.2 - Ventilation Requirements.

[PCC0735]

9. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -

- (a) Line-marking (or equivalent, approved delineation markings) of the neighbouring Public Car Park.
- (b) The driveway access must provide the required 2m x 2m "sight triangle" envelope in accordance with Council's "Driveway Access To Property – Part 1" Design Specification.

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

- Road works/furnishings
- Stormwater drainage
- Water and sewerage works
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

10. Prior to release of the construction certificate certification from a practising structural engineer in respect that the existing building is structurally sound and capable of supporting the proposed loads associated with the development is to be submitted to the PCA.

[PCC0945]

11. Waste material (soil including that removed from the lift well excavation, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be

submitted to and approved by the Principal Certifying Authority PRIOR to the issue of a construction certificate.

The Plan shall specify how this waste is to be treated and/or where the waste is to be disposed of. This waste shall be disposed of at an approved landfill facility, by a licensed waste removal company or to the satisfaction of Council's General Manager or delegate. Documentary evidence of appropriate disposal must be provided to Council staff upon request.

[PCC1065]

12. Permanent stormwater quality treatment shall be provided in accordance with the following:
 - (a) The Construction Certificate Application shall include a detailed Stormwater Management Plan (SWMP) for the occupational or use stage of the development prepared 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. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.
 - (d) Specific Requirements to be detailed within the Construction certificate application include:
 - (i) Shake down area within the property, immediately prior to any vehicle entering or exiting the site.
 - (ii) Runoff from all hardstand areas, (including car parking and hardstand landscaping areas and excluding roof areas) must be treated to remove oil and sediment contaminants prior to discharge to the public realm. All permanent stormwater treatment devices must be sized according to Council's *Development Design Specification D7 – Stormwater Quality*, Section D7.12. Engineering details of the proposed devices, including maintenance schedules, shall be submitted with a s68 Stormwater Application for approval prior to issue of a Construction Certificate.
 - (iii) Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly.

[PCC1105]

13. Stormwater

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

- (c) The infiltration rate for sizing infiltration devices shall be 3m per day:
 - * As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
- (d) Surchage overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
- (e) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
- (f) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
- (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (h) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- (i) All infiltration devices are to be designed to allow for construction and operation vehicular loading.
- (j) All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

- 14. 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]

- 15. An application shall be lodged and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage or drainage works (including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works) prior to the issue of a construction certificate.

[PCC1195]

- 16. Prior to the construction certificate being issued plans drawn to a scale of 1:50 detailing the following with regards to all food related areas shall be provided to Council's Environmental Health Officers for assessment and approval:

- (a) Floor plan
- (b) Layout of kitchens and bar showing all equipment
- (c) All internal finish details including floors, wall, ceiling and lighting
- (d) Hydraulic design in particular method of disposal of trade waste
- (e) Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required
- (f) Servery areas including counters etc.

[PCCNS01]

17. A planned retreat management plan is to be prepared and submitted to the General Manager or delegate for approval covering monitoring of the erosion hazard as it relates to the surf club site and building, contingencies for building relocation including emergency response procedures and any other issues relating to planned retreat and erosion hazard management.

[PCCNS02]

18. The proposed building foundations are to be designed and certified by a suitably qualified and experienced structural engineer having regard for the coastal erosion hazard.

[PCCNS03]

19. The applicant must show evidence of tenure over the land to allow occupation and construction, either in the form of a lease or licence agreement with the landowner. Tweed Shire Council resolved the following:

- (i) The Tweed Coast Holiday Parks Reserves Trust approves entering into a lease agreement with the Fingal Surf Club for part of Crown Reserve 1001012 pursuant to section 34A of the *Crown Lands Act* for a term of ten years at the statutory minimum rental; and
- (ii) The Tweed Coast Holiday Parks Reserves Trust approves entering into a lease agreement with the Fingal Surf Club for part of Crown Reserve 1001008 pursuant to section 34A of the *Crown Lands Act* for a term of ten years at the statutory minimum rental; and
- (iii) Council approves entering into a lease with Fingal Surf Club for that area encroaching upon the road reserve of Prince Street, Fingal pursuant to section 157 of the Roads Act for a term of five years;
- (iv) Council makes an application to close that area of road reserve leased to the Fingal Surf Club where the Club bears all application and survey cost; and

- (v) All documentation is executed under the Common seal of Council.

[PCCNS04]

PRIOR TO COMMENCEMENT OF WORK

20. 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]

21. 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]

22. 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]

23. 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]

24. Dilapidation reports detailing the current general condition including the structural condition of the adjoining buildings/sites, infrastructure and roads 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.

The dilapidation reports shall take into consideration the findings of the original reports and provide to Council the written acceptance of the adjoining/adjacent owners confirming agreement that no damages have occurred/repairs carried out are acceptable.

[PCW0775]

25. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

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]

26. 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]

27. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by the General Manager or his delegate prior to any discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges.

[PCW1075]

28. Prior to commencement of building works provide hydraulic drawings on the proposed sewer drainage systems including pipe sizes, details of materials and discharge temperatures.

[PCW1085]

29. An Approval to Install a Waste Treatment Device shall be obtained prior to the commencement of the installation of the facility.

[PCW1105]

30. The applicant is to enter into a lease with The Reserve Trust and The Department of Lands over crown Reserve 1001008 and 1001012.

[PCWNS01]

31. The applicant shall enter into a lease with Council for the road closure parcel upon the sooner of either:

(a) The expiry of the current lease over that area of encroachment by the clubhouse over the road reserve; or

- (b) The creation of a title for the closed road parcel following registration of a road closure plan.

The applicant will provide evidence to the Director of Planning and Regulation demonstrating that the lease agreement for the closed road parcel have been finalised. All costs in relation to the lease are to be borne by the applicant.

[PCWNS02]

DURING CONSTRUCTION

32. 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]

33. 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]

34. 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} 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} 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]

35. 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]

36. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:

(a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.

(b) The chute shall be located in a position approved by the Principal Certifying Authority.

- (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.

[DUR0385]

37. 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]

38. 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]

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

[DUR0415]

40. 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]

41. 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 Council's road reserve.

[DUR0435]

42. 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, Occupational Health and Safety Regulation 2001.

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]

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

[DUR0815]

44. 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]

45. 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 an Occupation Certificate.

[DUR0995]

46. All work associated with this approval is to be carried out so as not to impact on neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from noise, water or air pollution.

[DUR1005]

47. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. Such materials shall either be recycled or disposed of in a manner acceptable to Councils General Manager or his delegate.

[DUR1015]

48. 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]

49. An automatic fire detection and alarm system, designed to ensure the occupants are given adequate warning so they can evacuate the building in an emergency, must be installed in Class 2 and 3 buildings and Class 4 part of a building in accordance with the provisions of Specification E2.2a of the Building Code of Australia. Smoke alarms must be installed:

- (a) within each sole occupancy unit, located on or near the ceiling in any storey

-

- (i) containing bedrooms -

* between each part of the sole occupancy unit containing bedrooms and the remainder of the sole occupancy unit; and

* where bedrooms are served by a hallway, in that hallway; and

- (ii) not containing any bedrooms, in egress paths; and

- (b) in a building not protected with a sprinkler system, in public corridors and other internal public spaces, located in accordance with the requirements for smoke detectors in AS 1670 and connected to activate a building occupant warning system in accordance with Specification 2.2a(6) of the Building Code of Australia which states:

A building occupant warning system must comply with Clause 3.22 of AS 1670 to sound through all occupied areas except-

- (c) in a Class 2 and 3 building or Class 4 part provided with a smoke alarm system:
 - (i) the sound pressure level need not be measured within a sole occupancy unit if a level of not less than 85dB(A) is provided at the door providing access to the sole occupancy unit; and
 - (ii) the inbuilt sounders of the smoke alarms may be used to wholly or partially meet the requirements.

A Certificate of Compliance is to be submitted to the PCA prepared by the licensed Electrical Contractor certifying that the installation complies with the above, prior to occupation of the building.

[DUR1245]

50. Fire hose reels shall be installed in accordance with the provisions of Part E1.4 of the Building Code of Australia and comply with Australian Standard AS1221 and AS2441.

However, they shall not be installed until the PCA has been furnished with a certificate, signed by a Hydraulics Engineer stating that the design and proposed manner of installation complies with the relevant standards.

[DUR1255]

51. All materials used in the building must comply with the smoke developed and spread of flame indices specified in Specification C1.10 of the Building Code of Australia.

Note: Many materials including some timbers such as western red cedar do not comply and it is the applicant's responsibility to ensure that all materials to be used are within the criteria specified.

[DUR1275]

52. Exits are to be provided so that no point on the floor of the building shall be more than 20 metres from:

- (a) an exit; or
- (b) a point from which travel in different directions to two exits is available in which case the maximum distance to one of those exits shall not exceed 40 metres.

[DUR1285]

53. Exit signs which comply with Part E4.5 of the Building Code of Australia and are designed in accordance with Part E4.8 of the Building Code of Australia and are to be installed. Mounting heights shall be in accordance with AS2293.1.

[DUR1295]

54. Emergency lighting to comply with Part E4.2 of the Building Code of Australia shall be provided. Details of the system to be used and a certificate from the electrical engineer to certify that the system will comply with all relevant requirements of Part E4.4 of the Building Code of Australia and AS 2293.1 are to be submitted to the PCA prior to installation.

[DUR1305]

55. Doors forming exits, paths of travel to exits and parts of exits shall comply with the relevant provisions of D2.19 and D2.20 and D2.21 (door latch to operate by single handed, downward action on egress) of the Building Code of Australia.

[DUR1315]

56. All walls in the food preparation and storage areas shall be of solid construction. For this purpose walls in such areas may be of masonry or stud wall construction. If stud wall construction is used then the wall shall be lined as a minimum with 9mm thick high impact resistant material e.g. Villaboard or Versilux lining or other suitable material(s) approved by Council's Environmental Health Officer and tiled to a height of at least 2 metres above the floor and coved at the floor/wall junction in an approved manner.

Masonry walls where not tiled may be cement rendered to provide a smooth faced impervious finish up to the underside of the ceiling from the floor surface or where permitted from the top of any bench or fitting permanently fixed to the wall.

Metal stud wall framing in lieu of timber framing shall be used in wet areas or where the walls and floor surfaces will be subjected to high levels of moisture or alternatively as directed by Council's Environmental Health Officer.

All penetrations of the wall surface in food preparation areas shall be effectively sealed to the satisfaction of Council's Environmental Health Officer.

[DUR1495]

57. All flooring materials in the food preparation and storage areas are to be impervious, non slip, non abrasive and capable of withstanding heavy duty operation. Where tiling is to be used epoxy grout finished flush with the floor surface is to be used in joints or alternatively all tiles are to be butt joined and free of cracks or crevices.

[DUR1505]

58. Windows and doors opening into food handling, preparation and storage areas shall be pest proofed in accordance with the provisions of Food Safety Standard 3.2.3.

[DUR1515]

59. Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of the General Manager or his delegate.

[DUR1545]

60. A floor waste connected to the drainage system shall be provided within 1.5 metres of the opening of any cool room.

[DUR1565]

61. All shelving, benches, fittings and furniture on which appliances and utensils are positioned within the premises must be of durable, smooth, impervious material capable of being easily cleaned.

[DUR1605]

62. The walls immediately behind any basin shall be provided with an impervious splashback to a height of 450mm and at least 150mm either side of the basin.

[DUR1625]

63. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building

Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.

[DUR1685]

64. Where a building or part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428.

[DUR1695]

65. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia.

[DUR1705]

66. 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]

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

[DUR1845]

68. 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 Design and Construction Specifications prior to any use or occupation of the buildings.

[DUR1875]

69. During construction, a "satisfactory inspection report" is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR1925]

70. 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]

71. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction/demolition.

[DUR2185]

72. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials.

[DUR2205]

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

[DUR2245]

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

[DUR2255]

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

[DUR2405]

76. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.

[DUR2425]

77. 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]

78. 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]

79. 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 NSW Code of Practice for Plumbing and Drainage.

[DUR2495]

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

[DUR2515]

81. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.

[DUR2525]

82. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with

AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR2535]

83. 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]

84. 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:-

- * 43.5°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.

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

[DUR2555]

86. House drainage lines affected by the proposal are to be relocated to Council's satisfaction. Prior to the relocation of any plumbing and drainage lines, a plumbing permit and the relevant plumbing permit fee is to be submitted to Council. Inspection of drainage works prior to covering is required

[DUR2565]

87. Pre-treatment devices must be serviced by a Council approved waste contractor. The applicant will be required to enter into a service agreement with this waste contractor. Pre-treatment device service frequency will be approved by Councils Manager Water.

[DUR2595]

88. A trade waste agreement will be issued and a permit number allocated once the device has been installed, inspected and Council has received a copy of the Waste Contractor's Service Agreement

[DUR2685]

89. During the course of construction and fitout of the kitchen/food premises a set of drawings approved and issued by Council's Environmental Health Services Unit is to be kept onsite at all times.

[DURNS01]

90. During the course of construction and fitout of the kitchen/food premises periodic inspections must be arranged with Council's Environmental Health Officer to ensure compliance with all health related conditions of approval and respective legislation.

[DURNS02]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

92. 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]
93. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.
[POC0225]
94. 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]
95. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval.
[POC0615]
96. The food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations.
For notification and registering of premises please contact the NSW Food Authority on 1300 650 124 or www.foodnotify.nsw.gov.au.
[POC0625]
97. The premise is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request.
[POC0635]
98. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 138 of the Roads Act 1993.
[POC0745]
99. On completion of work a certificate signed by a practising structural engineer is to be submitted to the Principal Certifying Authority to certify the structural adequacy of the structure.
[POC0805]
100. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate.

[POC0855]

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

[POC0865]

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

[POC0985]

103. 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]

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

[POC1055]

105. Prior to release of the construction certificate plans incorporating additional showers and a bath as required by Table F2.1 of the BCA to service the requirements of the Class 3 portion (dormitory) is to be submitted to the PCA.

[POCNS01]

USE

106. 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]

107. 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]

108. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.

[USE0225]

109. All externally mounted air conditioning units and any other mechanical plant and equipment shall be acoustically treated so as to avoid the creation of offensive or intrusive noise to any occupant of neighbouring or adjacent premises.

[USE0235]

110. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act 2003*, *FSANZ Food Safety Standards, AS 4674-2004 Design, Construction and Fit-out of Food Premises*, and other requirements of Council's Environmental Health Officer included in this approval.
[USE0835]
111. All mechanical ventilation shall comply with AS1668.2 Ventilation Requirements.
[USE0845]
112. Adequate natural or mechanical ventilation must be provided to the satisfaction of the General Manager or his delegate.
[USE0865]
113. All commercial / industrial / residential wastes shall be collected, stored and disposed of in accordance with any approved Waste Management Plan or to the satisfaction of the General Manager or his delegate.
[USE0875]
114. The premises shall be maintained in a clean and tidy manner.
[USE0965]
115. The premises must be provided with facilities that are adequate for the purpose of keeping towels, sheets, mattress liners and the like clean.
[USE1005]
116. Footpath dining activities shall not be carried out unless a Footpath Dining License Agreement has been approved by the General Manager or his delegate. Footpath dining activities shall be restricted to the approved footpath dining area and carried out in accordance with Councils adopted Footpath Dining Policy.
[USE1105]
117. Prior to the building being used as a "place of public entertainment" as defined under the "Environmental Planning and Assessment Act, 1979 No. 203" development consent is to be obtained from Council in this regard.
[USENS01]
118. Functions held within the Surf Club building and or on the grassed area to the east (seaward) of the Surf Club building, are only for and by Surf Club members. No functions are to be held within the peak Surf Club season being 1 December to 31 January.
[USENS02]

The Motion was **Carried**

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