

**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 17 November 2009**

held at Murwillumbah Cultural & Civic Centre  
commencing at 4.30pm

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The Meeting commenced at 4.30pm.

## **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 Kerrie McConnell (Minutes Secretary).

## **ITEMS TO BE MOVED FROM ORDINARY TO CONFIDENTIAL - CONFIDENTIAL TO ORDINARY**

**384**

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that Item 12 [PR-CM] Update on Development Application DA05/0223 for a restaurant at Lot 1 DP 553728, No. 4 Wharf Street Tweed Heads be moved from Ordinary to Confidential.

The Motion was **Carried**

***FOR VOTE - Unanimous***

## **ORDINARY ITEMS FOR CONSIDERATION**

## **REPORTS THROUGH THE GENERAL MANAGER**

## REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 8 [PR-CM] Development Application DA09/0048 for an Eighteen (18) Lot Community Title Subdivision Comprising of Seventeen (17) Residential and One (1) Neighbourhood Property Allotment at Lot 56 DP 1030322, Collins Lane Casuarina

393

Cr D Holdom  
Cr J van Lieshout

**RESOLVED** that Development Application DA09/0048 for a eighteen (18) lot community title subdivision comprising of seventeen (17) residential and one (1) neighbourhood property allotment at Lot 56 DP 1030322, Collins Lane Casuarina be approved subject to the following conditions: -

### GENERAL

1. The staged development shall be completed in accordance with the Statement of Environmental Effects, the associated documentation and Plan No. 1 – Subdivision Plan prepared by Planit Consulting dated June 2009.

The staging is to occur as follows:

Stage 1

One allotment comprising proposed Lot 6.

Stage 2

Five allotments comprising proposed Lots 1-5.

Stage 3

Eleven residential allotments and one neighbourhood property allotment containing an internal service road comprising proposed Lots 7-17 and internal road.

except where varied by the conditions of this consent.

[GEN0005]

2. The subdivision is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications.

[GEN0125]

3. Approval is given subject to the location of, protection of, and/or any necessary 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. No residential buildings (or associated buildings, structures or services) are permitted on land zoned 7(f) Environmental Protection (Coastal Lands) within proposed allotments 13-17 within Stage 3.

This excludes the existing and proposed sewer infrastructure subject to compliance with Condition 15 of this consent to ensure compliance with the permissible uses within the 7(f) zone.

[GENNS01]

## **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

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

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

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

[PCC0275]

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

[PCC0285]

8. All 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]

9. 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 included as part of the construction certificate application.

[PCC0485]

10. 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 for each stage of this development.

The landscaping plan shall show street trees to Casuarina Way (with a minimum of one street tree per allotment frontage to Casuarina Way) and

landscaping addressing the internal road within Stage 3.

[PCC0585]

11. 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]

12. 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/access driveways
  - stormwater drainage
  - water supply works
  - sewerage works
  - landscaping works
  - sedimentation and erosion management plans
  - location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure)

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

[PCC0985]

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

[PCC1155]

14. Medium density/integrated developments (subject to separate future approvals) will be required to provide a single bulk water service at the road frontage. Individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply

authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

This is relevant for Lots 7 - 11 and 13 - 17 in Stage 3 only.

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

[PCC1185]

15. Prior to issue of a Construction Certificate for Stage 3 the applicant is to lodge revised sewer infrastructure provisions for Lots 13 – 17 to relocate the proposed private sewer infrastructure outside the 7(f) zone.

Council may consider alternative options to maintain the proposed alignment including the possibility of retaining the sewer as public infrastructure upon lodgement of the Construction Certificate application. In this regard an easement in favour of Council over the public sewer would be required if it remained within the 7(f) zone.

This condition has been imposed to ensure compliance with the permissible uses within the 7(f) zone.

[PCNS01]

#### **PRIOR TO COMMENCEMENT OF WORK**

16. 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]

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

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

[PCW0025]

18. 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]

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

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

[PCW0375]

20. 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,

This part of the condition is applicable to Stage 3 only 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]

21. 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]



22. 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.

[PCW0985]

23. Prior to the commencement of work, a Construction Certificate shall be obtained for the works proposed by this consent.

[PCWNS01]

24. 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]

### **DURING CONSTRUCTION**

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

[DUR0005]

26. Construction of the internal accessway serving lots 7 to 11 and 13 to 17, generally to a 6m wide concrete/bitumen sealed standard, in accordance with the provisions of Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications.

This condition is applicable to Stage 3 only.

[DUR0055]

27. The provision of 7 off street car parking spaces including parking for the disabled where applicable. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.

This condition is applicable to Stage 3 only.

[DUR0085]

28. 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]

29. 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.

LAeq 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.

LAeq 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]

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

[DUR0745]

31. 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]

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

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

[DUR0765]

33. 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]

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

[DUR0815]

35. 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]
36. 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]
37. 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]
38. 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]
39. 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]
40. Landscaping of the site shall be carried out in accordance with the submitted/approved landscaping plans as required by Condition 10 of this consent.  
[DUR1045]
41. 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]
42. 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]
43. 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:-

Road / Access Works

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

Water Reticulation, Sewer Reticulation, Drainage

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

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

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR1895]

44. 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]

45. 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]

46. 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]

47. 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. A screened, graded and drained garbage storage area shall be provided within the boundary. [DUR2205]
48. 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]
49. 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]
50. All waters that are to be discharged from the site shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/kg. [DUR2435]
51. All imported fill shall be from an approved source and free from contaminants.
52. A sewer manhole is present on the site. This manhole is not to be covered with soil or other material. Should additional fill be proposed in the area of the sewer manhole, application shall be made to Council's Engineering & Operations Division for the raising of the manhole. [DURNS02]

## USE

53. 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]
54. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise. [USE0175]

55. All externally mounted artificial lighting, 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]

### **PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

56. 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]

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

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

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

#### Stage 1

Water DSP6:	1 ET @ \$10709 per ET	\$10709
South Kingscliff Water Levy:	1 ET @ 248.4 per ET	\$248
Sewer Kingscliff:	1 ET @ \$5146 per ET	\$5146

#### Stage 2

Water DSP6:	5 ET @ \$10709 per ET	\$53545
South Kingscliff Water Levy:	5 ET @ 248.4 per ET	\$1242
Sewer Kingscliff:	5 ET @ \$5146 per ET	\$25730

#### Stage 3

Water DSP6:	9 ET @ \$10709 per ET	\$96381
South Kingscliff Water Levy:	10 ET @ 248.4 per ET	\$2484
Sewer Kingscliff:	9 ET @ \$5146 per ET	\$46314

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

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

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

[PSC0165]

58. 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.

Stage 1

- (a) Tweed Road Contribution Plan:  
6.5 Trips @ \$861 per Trips \$5597  
((\$782 base rate + \$79 indexation)  
S94 Plan No. 4  
Sector6\_4

LCA4 - Casuarina: \$103

(\$154 base rate + \$5 indexation per trip)  
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 5.1.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. 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:

\$Con<sub>TRCP - Heavy</sub> heavy haulage contribution

and:

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

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

\$Unit the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

- (b) Shirewide Library Facilities:  
1 ET @ \$374 per ET \$374  
((\$374 base rate + \$0 indexation)  
S94 Plan No. 11
- (c) Bus Shelters:  
1 ET @ \$26 per ET \$26  
((\$26 base rate + \$0 indexation)  
S94 Plan No. 12
- (d) Eviron Cemetery:  
1 ET @ \$131 per ET \$131  
((\$131 base rate + \$0 indexation)  
S94 Plan No. 13
- (e) Emergency Facilities (Surf Lifesaving):  
1 ET @ \$200 per ET \$200  
((\$200 base rate + \$0 indexation)  
S94 Plan No. 16
- (f) Extensions to Council Administration Offices  
& Technical Support Facilities  
1 ET @ \$1996.80 per ET \$1996.80  
((\$1996.80 base rate + \$0 indexation)  
S94 Plan No. 18
- (g) Casuarina Beach/Kings Forest Community Facilities:  
1 ET @ \$1443 per ET \$1443  
((\$1443 base rate + \$0 indexation)  
S94 Plan No. 19
- (h) Casuarina Beach/Kings Forest Open Space:  
1 ET @ \$1544 per ET \$1544  
((\$1544 base rate + \$0 indexation)  
S94 Plan No. 19



- (i) Cycleways:  
 1 ET @ \$352 per ET \$352  
 (\$352 base rate + \$0 indexation)  
 S94 Plan No. 22
- (j) Regional Open Space (Casual)  
 1 ET @ \$855 per ET \$855  
 (\$855 base rate + \$0 indexation)  
 S94 Plan No. 26
- (k) Regional Open Space (Structured):  
 1 ET @ \$2327 per ET \$2327  
 (\$2327 base rate + \$0 indexation)  
 S94 Plan No. 26

Stage 2

- (a) Tweed Road Contribution Plan:  
 32.5 Trips @ \$861 per Trips \$27983  
 (\$782 base rate + \$79 indexation)  
 S94 Plan No. 4

Sector6\_4

LCA4 - Casuarina: \$516

(\$154 base rate + \$5 indexation per trip)

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 5.1.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. 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 6.4 (currently 2.5c per tonne per kilometre)

	Admin. Administration component - 5% - see Section 6.5	
(b)	Shirewide Library Facilities: 5 ET @ \$374 per ET (\$374 base rate + \$0 indexation) S94 Plan No. 11	\$1870
(c)	Bus Shelters: 5 ET @ \$26 per ET (\$26 base rate + \$0 indexation) S94 Plan No. 12	\$130
(d)	Eviron Cemetery: 5 ET @ \$131 per ET (\$131 base rate + \$0 indexation) S94 Plan No. 13	\$655
(e)	Emergency Facilities (Surf Lifesaving): 5 ET @ \$200 per ET (\$200 base rate + \$0 indexation) S94 Plan No. 16	\$1000
(f)	Extensions to Council Administration Offices & Technical Support Facilities 5 ET @ \$1996.8 per ET (\$1996.8 base rate + \$0 indexation) S94 Plan No. 18	\$9984
(g)	Casuarina Beach/Kings Forest Community Facilities: 5 ET @ \$1443 per ET (\$1443 base rate + \$0 indexation) S94 Plan No. 19	\$7215
(h)	Casuarina Beach/Kings Forest Open Space: 5 ET @ \$1544 per ET (\$1544 base rate + \$0 indexation) S94 Plan No. 19	\$7720
(i)	Cycleways: 5 ET @ \$352 per ET (\$352 base rate + \$0 indexation) S94 Plan No. 22	\$1760
(j)	Regional Open Space (Casual) 5 ET @ \$855 per ET (\$855 base rate + \$0 indexation) S94 Plan No. 26	\$4275
(k)	Regional Open Space (Structured):	

5 ET @ \$2327 per ET \$11635  
 (\$2327 base rate + \$0 indexation)  
 S94 Plan No. 26

Stage 3

(a) Tweed Road Contribution Plan:  
 58.5 Trips @ \$861 per Trips \$50369  
 (\$782 base rate + \$79 indexation)  
 S94 Plan No. 4

Sector6\_4

LCA4 - Casuarina: \$930

(\$154 base rate + \$5 indexation per trip)  
 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 5.1.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. 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 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

(b) Shirewide Library Facilities:  
 9.6918 ET @ \$374 per ET \$3625  
 (\$374 base rate + \$0 indexation)  
 S94 Plan No. 11

(c) Bus Shelters:  
 10 ET @ \$26 per ET \$260  
 (\$26 base rate + \$0 indexation)

	S94 Plan No. 12	
(d)	Eviron Cemetery: 9.619 ET @ \$131 per ET (\$131 base rate + \$0 indexation)	\$1260
	S94 Plan No. 13	
(e)	Emergency Facilities (Surf Lifesaving): 9.689 ET @ \$200 per ET (\$200 base rate + \$0 indexation)	\$1938
	S94 Plan No. 16	
(f)	Extensions to Council Administration Offices & Technical Support Facilities 9.4828 ET @ \$1996.8 per ET (\$1996.8 base rate + \$0 indexation)	\$18935.26
	S94 Plan No. 18	
(g)	Casuarina Beach/Kings Forest Community Facilities: 9.6922 ET @ \$1443 per ET (\$1443 base rate + \$0 indexation)	\$13986
	S94 Plan No. 19	
(h)	Casuarina Beach/Kings Forest Open Space: 9.6938 ET @ \$1544 per ET (\$1544 base rate + \$0 indexation)	\$14967
	S94 Plan No. 19	
(i)	Cycleways: 9.6874 ET @ \$352 per ET (\$352 base rate + \$0 indexation)	\$3410
	S94 Plan No. 22	
(j)	Regional Open Space (Casual) 9.6932 ET @ \$855 per ET (\$855 base rate + \$0 indexation)	\$8288
	S94 Plan No. 26	
(k)	Regional Open Space (Structured): 9.6968 ET @ \$2327 per ET (\$2327 base rate + \$0 indexation)	\$22564
	S94 Plan No. 26	

[PSC0175]

59. 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.

This requirement is directed at Stage 3, but may also be imposed on earlier stages, depending on the extent of works required for those earlier stages.

[PSC0215]

60. 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.

This requirement is directed Stage 3, but may also be imposed on earlier stages, depending on the extent of works required for those earlier stages.

[PSC0235]

61. 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]

62. 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]

63. 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]

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

[PSC0825]

65. 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 over ALL public services/infrastructure on private property.
- (b) Restriction as to user for proposed allotments 13 - 17 (inclusive) in accordance with Condition 5 of this consent as it relates to the 7(f) Environmental Protection (Coastal Lands) zone.

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]

- 66. 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]

- 67. 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]

- 68. Pursuant to Section 80A(1)(b) of the Environmental Planning and Assessment Act, 1979 (As amended) and Clause 97 of the Environmental Planning and Assessment Regulations, 2000, the following Development Consents shall be surrendered by lodgement of the prescribed information, suitably executed, PRIOR to the issue of a Subdivision Certificate for the relevant Stages of the approved development, as follows;

- Stage 1: - Development Consent No. DA02/1009 and associated CC04/0403
- Development Consent No. DA02/1708 and associated CC04/0402
- Development Consent No. DA09/0109 and any associated construction certificate.

Stages 2 and 3: - any relevant conflicting Development Consents.

[PSC0875]

- 69. 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.
70. A Community Management Statement detailing the by-laws necessary for the efficient running of the scheme. The Statement may include defining any proposed open and/or private accessways, as well as any statutory easements (service works plan). The Statement shall provide details on:
- The theme of the development (if any)
  - Any special requirements for use or maintenance of the association property,
  - Whether access within a scheme will be via public roads or whether accessways are to be used. Accessways remain association property and will have to be maintained by the association and not the local council.
  - Who owns and maintains service lines within the scheme: the association or the service providers.
  - The existing Council-imposed title restrictions over the property. These must all be reiterated within the Community Management Statement and cover: the restricted building area within the site; stormwater discharge infiltration requirements; and pet and plant restrictions.
  - Other issues such as the hanging of washing, and noise.

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]

71. The following restrictions apply to dog and cat ownership and control on all residential lots:-
- (a) Owners of dogs within the development shall have their yards fenced so as to securely contain a maximum of one (1) dog per allotment and the ownership of cats within the development shall be restricted to one de-sexed cat per allotment and such cats shall be restrained within the house or a secure night cage between the hours of 6.00pm and 6.00am.
  - (b) No dog shall be registered without the construction of a dog-proof compound which must be approved by Council and the relevant fee paid by the applicant.
  - (c) No owner can retrieve a dog that has been impounded unless they can demonstrate to Council they have a secure compound. These ownership and control requirements shall be reinforced by inclusion in the Community Management Statement.

Any Instrument creating these restrictions shall contain a provision

enabling the restriction to be revoked, varied or modified only with the consent of Council.

[PSC0905]

72. 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 / Accessways
  - (b) Compliance Certificate - Water Reticulation
  - (c) Compliance Certificate - Sewerage Reticulation
  - (d) Compliance Certificate - Drainage

Note:

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

[PSC0915]

73. The six (6) months Defects Liability Period, where relevant, commences upon the registration of the Plan of Subdivision.

[PSC0925]

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

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

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

[PSC1065]

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

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



[PSC1115]

76. 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]

77. Electricity

- (a) The production of written evidence from the local electricity supply authority certifying that reticulation and energising of underground electricity (residential and rural residential) has been provided adjacent to the front boundary of each allotment; and
- (b) The reticulation includes the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council. Should any electrical supply authority infrastructure (sub-stations, switching stations, cabling etc) be required to be located on Council land (existing or future), then Council is to be included in all negotiations. Appropriate easements are to be created over all such infrastructure, whether on Council lands or private lands.

Compensatory measures may be pursued by the General Manager or his delegate for any significant effect on Public Reserves or Drainage Reserves.

[PSC1185]

The existing Right-of-Carriageway registered over the western section of the Collins Lane cul-de-sac head and footpath area shall be extinguished, and a public road shall be dedicated to Council free of cost over the same road and footpath areas.

The area for road dedication shall be to the satisfaction of the Director Planning and Regulation.

This requirement is to be addressed as part of Stage 1

[PSCNS01]

78. All Community Title subdivisions require 'Lot 1' to be the 'community lot', with all common access and servicing provisions constructed and nominated within that lot. The proposed lots will need to be re-numbered accordingly, prior to the issue of a Subdivision Certificate for any stage of the development.

[PSCNS02]

Prior to the issue of a Subdivision Certificate for Stage 1, the applicant is required to:

- a) Address the provision of all services to proposed Lot 6. This may require the prior submission of application forms and/or a construction certificate for any necessary relevant works.
- b) Submit Work-as-Executed information, test results and engineering certification on any subdivisional civil works that were previously constructed under either of the Council-issued construction certificates CC04/0402 and CC04/0403. All sewer junctions on new infrastructure are to be clearly nominated.

- c) Submit a Community Management Statement detailing the by-laws necessary for the efficient running of the scheme. The Statement may include defining any proposed open and/or private accessways, as well as any statutory easements (service works plan). The Statement shall provide details on:
- The theme of the development (if any)
  - Any special requirements for use or maintenance of the association property,
  - Whether access within a scheme will be via public roads or whether accessways are to be used. Accessways remain association property and will have to be maintained by the association and not the local council.
  - Who owns and maintains service lines within the scheme: the association or the service providers.
  - The existing Council-imposed title restrictions over the property. These must all be reiterated within the Community Management Statement and cover: the restricted building area within the site; stormwater discharge infiltration requirements; and pet and plant restrictions.
  - The NSW Rural Fire Service restrictions including Asset Protection Zones (APZ's).
  - Other issues such as the hanging of washing, and noise.
- d) The Stage 1 release must address (not necessarily construct) the stormwater management requirements for the entire development. This is due to the requirement for all lots to infiltrate roofwater, and have a surcharge overflow path to the street. Lots 7 to 12 have adverse fall away from the street, and the applicant must determine the most appropriate stormwater scheme for the site. Some site filling may be necessary to achieve this, and may involve Lot 6, being Stage 1 of the development. The stormwater management plan must also take into account:
- Likely landscaping within the surcharge overland flowpaths,
  - Surcharge overflows from the infiltration area to the street or public drainage system must occur by visible surface flow, not piped.
  - Treatment for runoff other than roofwater, to remove contaminants prior to entry into the infiltration device,
  - The design criteria infiltration rate of 3m per day, when sizing infiltration devices,
  - Sites under Strata or Community Title are normally required to have infiltration areas contained within community land, to ensure collective responsibility for site drainage. The applicant must specifically address and justify any deviation from this standard.
  - All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.

- All infiltration devices are to be located clear of all easements, and take into account the proximity of future dwelling foundations.

[PSCNS03]

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

79. At the issue of the subdivision certificate and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Services document 'Standards for asset protection zones'.
80. A minimum 15 metre asset protection zone (APZ) is to be provided from the eastern boundary of proposed Lots 13 to 17 (inclusive) of the development and shall be maintained 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'.
81. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
82. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.
83. The existing dwellings on proposed Lots 15 and 16 are required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen. Where applicable, this includes any sub floor areas, openable windows, doors vents, weepholes and eaves.

**394**

### **AMENDMENT**

**Cr K Milne  
Cr B Longland**

**PROPOSED** that this item be deferred to be considered for further sea level rise and climate change, especially in relation to public foreshore / open space beachfront.

The Amendment was **Lost**

**FOR VOTE - Cr B Longland, Cr K Milne**

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

The Motion was **Carried** – (Minute No 393 refers)

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

**AGAINST VOTE - Cr B Longland, Cr K Milne**

- 9 [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

395

**Cr B Longland  
Cr J van Lieshout**

**RESOLVED** that this application be deferred for presentation at a future Council meeting following the conduct of a public meeting by Optus in the Uki community in order to properly gauge community opinion on this proposal and report the outcome of that meeting to Council.

The Motion was **Carried**

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

**AGAINST VOTE - Cr P Youngblutt, Cr D Holdom**

- 10 [PR-CM] Development Application DA09/0523 for a Dwelling at Lot 383 DP 1134599, Overall Drive Pottsville

396

**Cr K Skinner  
Cr J van Lieshout**

**RESOLVED** that:-

- A. State Environmental Planning Policy No. 1 objection to Clause 32B of the North Coast Regional Environmental Plan regarding overshadowing be supported and the concurrence of the Director-General of the Department of Planning be assumed
- B. That Development Application DA09/0523 for a dwelling at Lot 383 DP 1134599, Overall Drive Pottsville be approved subject to the following conditions: -

## GENERAL

1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.  
[GEN0015]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.  
[GEN0115]
3. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.  
[GEN0135]
4. A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material.  
Should additional fill be proposed in the area of the sewer manhole application shall be made to Council's Engineering & Operations Division for the raising of the manhole.  
[GEN0155]

## PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.  
[PCC0285]

## PRIOR TO COMMENCEMENT OF WORK

6. 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]
7. 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]

8. 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]

9. 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]

10. 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]

11. 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]

12. 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]

13. 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

14. All proposed works are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.  
[DUR0005]
15. Construction and/or demolition site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -  
Monday to Saturday from 7.00am to 6.00pm  
No work to be carried out on Sundays or Public Holidays  
The proponent is responsible to instruct and control subcontractors regarding hours of work.  
[DUR0205]
16. 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<sub>Aeq</sub> 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<sub>Aeq</sub> noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.  
[DUR0215]
17. The roof cladding is to have low reflectivity where it would otherwise cause nuisance to the occupants of buildings with direct line of sight to the proposed building.  
[DUR0245]
18. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).  
[DUR0375]
19. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.  
[DUR0395]
20. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the



notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

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

[DUR0415]

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

[DUR0445]

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

Please note timber retaining walls are not permitted.

[DUR0835]

24. 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]

25. 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]

26. 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]

27. 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]

28. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains. [DUR1945]
29. 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]
30. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed. [DUR2245]
31. 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]
32. 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]
33. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993. [DUR2515]
34. 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]
35. 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]
36. 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]

### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

37. 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]

38. 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]

39. 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]

40. 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]

41. 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]

## **USE**

42. 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]

43. 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]

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

[USE0505]

## **PROCEDURAL MOTION**

**397**

**Cr J van Lieshout**

**RESOLVED** that the Motion be put.

The Procedural 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**

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**

- 11 [PR-CM] Development Application DA08/0869 for a Dwelling, Attached Garage, Swimming Pool & Fence at Lot 346 DP 1087716, No. 9 Cylinders Drive Kingscliff

398

Cr D Holdom  
Cr K Skinner

**RESOLVED** that:

- A. State Environmental Planning Policy No. 1 objection to Clause 32B of the North Coast Regional Environmental Plan regarding overshadowing be supported and the concurrence of the Director-General of the Department of Planning be assumed.
- B. That Development Application DA08/0869 for a dwelling, attached garage, swimming pool & fence at Lot 346 DP 1087716, No. 9 Cylinders Drive Kingscliff be approved subject to the following conditions: -

**GENERAL**

- 1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent. [GEN0015]
- 2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0115]
- 3. A Construction Certificate approval is to be obtained for all proposed pre-cast concrete panel fencing of any height and masonry fencing in excess of 1.2 metres in height, prior to any construction of the fence being commenced.

Site specific design details or approved generic details prepared by a practicing structural engineer are required to be submitted and approved as part of the Construction Certificate application.

Such structural engineers design details are to confirm that the fence proposal has been designed to take account of all site issues including the site's soil and load bearing characteristics, wind and other applied loadings, long term durability of all components particularly in relation to corrosion and compliance with Tweed Shire Council's policies for "Sewers - Building in Proximity" and provision of appropriate pedestrian sight clearances to footpaths in accordance with Australian Standard AS2890 "Parking Facilities". [GEN0145]

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

Should additional fill be proposed in the area of the sewer manhole application shall be made to Council's Engineering & Operations Division for the raising of the manhole.

[GEN0155]

5. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of a new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and the prescribed fee.

[GEN0245]

6.
  - a) New construction shall comply with Australian Standard AS3959-1999 'Construction of buildings in bushfire-prone areas' Level 2. New construction of the western façade shall comply with Australian Standard AS3959-1999 'Construction of buildings in bushfire-prone areas' Level 1.
  - b) Screen-less door systems, including glazing and supporting framework shall be designed and constructed to withstand 19kW/m<sup>2</sup> of radiant heat flux to prevent the entry of embers into the building. Draught excluders, seals and door furniture shall be manufactured from materials having a flammability index no greater than 5 (with the exception of intumescent seals which are permissible) and ensure that there are no gaps >2.0mm in diameter when the door is closed.
  - c) Roller doors, tilt-a-doors and the like shall be sealed to prevent the entry of embers into the building.
  - d) No brushwood (or the like) or treated pine timber fencing shall be used.
  - e) 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*'.
  - f) Water, electricity and gas are to comply with section 4.1.3 of *Planning for Bush Fire Protection 2006*.
  - g) To aid in fire fighting activities, unobstructed pedestrian access to the rear of the property shall be provided and maintained at all times.

[GENNS01]

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

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

accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

8. Stormwater

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

[PCC1135]

9. 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]

### **PRIOR TO COMMENCEMENT OF WORK**

10. 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.
11. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying

[PCW0215]



Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

12. 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]

13. 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]

14. 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]

15. 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]

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

[PCW1065]

## **DURING CONSTRUCTION**

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

18. The 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]

19. 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]

20. 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]

21. 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]

22. 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]

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

[DUR0445]

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

Please note timber retaining walls are not permitted.

[DUR0835]

25. 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]

26. 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]

27. All landscaping is to comply with the 88B Instrument pertaining to the site.

[DUR1055]

28. 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]

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

[DUR1945]

30. Swimming Pools (Building)
- (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](http://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. 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]
34. 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]
35. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
- [DUR2515]
36. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.
- [DUR2545]
37. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 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]

- 38. The front fence is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not affect or be affected by the sewer main.

[DUR2645]

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

[DUR2705]

### **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 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]

- 42. 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]

- 43. 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]

## USE

44. 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]
45. The building is to be used for single dwelling purposes only. [USE0505]
46. Bushfire asset protection zones are to be maintained around the house site at all times to the satisfaction of the NSW Rural Fire Service. [USE0575]
47. The keeping of dogs, cats or other animals on the property is to be in accordance with any relevant 88B Instrument requirements. [USE1245]
48. 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]
49. The swimming pool is not to be used for commercial purposes without prior Development Consent. [USE1305]

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**

**12. [PR-CM] Update on Development Application DA05/0223 for a restaurant at Lot 1 DP 553728, No. 4 Wharf Street Tweed Heads**

This item was moved from Ordinary to Confidential – Minute No 384 refers.

**13 [PR-CM] Court of Appeal Judgement (CA40279/09) in Relation to Development Application DA06/0413 for a Staged Seniors Living Development under SEPP (Seniors Living) 2004 at Lot 1 DP 786570 No. 87-89 Tweed Coast Road, Hastings Point**

**399**

**Cr K Skinner  
Cr J van Lieshout**

**RESOLVED** that:-

- A. The report on the Court of Appeal Judgement (CA40279/09) in Relation to Development Application DA06/0413 for a Staged Seniors Living Development under SEPP (Seniors Living) 2004 at Lot 1 DP 786570 No. 87-89 Tweed Coast Road, Hastings Point be received and noted.
- B. That Council receive and notes the two (2) additional appeals that have been received in regard to this matter and further notes the decision in accordance with legal advice to put a submitting appearance with regard to these matters.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**14 [PR-CM] Planning Reform Unit Work Program**

**400**

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that: -

1. Council supports the fees and charges schedule identified within Table 1 (Option 1) to this report relating to requests to review strategic planning policies:

Table 1 – Fees and Charges

Request for review of strategic planning policy outside of review period	
Item	Fees & Charges
General administration fee	\$500
Review process fee	\$500 + \$95 per hour per reviewer beyond 4hrs Plus, all additional printing costs
Council appointed and managed consultancy	The cost is to be determined by a Council invitation and submission process and agreed to by applicant + 25% administration fee.
Other costs	The applicant is liable to all additional costs in relation to the reprinting of an amended strategy and in addition is also liable for the partial cost of the current printing charge relating to the printing of the current policy, which shall be based on the number of un-sold copies remaining

2. The fees and charges identified within Table 1 (Option 1) of this report relating to requests to review strategic planning policies be exhibited in accordance with Section 610F of the Local Government Act, 1993, and
3. Council endorses a general process procedure for the management of requests for the review of strategic planning policies as detailed in Figure 1 of this report.
4. The flowchart is amended on page 180, “Determine Whether to Proceed”, for the determination to be changed from Director to Council.

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**

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

**401**

**Cr K Skinner**  
**Cr P Youngblutt**

**RESOLVED** that Council notes for the month of October 2009 that there are no Variations to Development Standards under State Environmental Planning Policy No 1 - Development Standards.

The Motion was **Carried**

**FOR VOTE - Unanimous**



## COMMITTEE OF THE WHOLE

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

#### 12 [PR-CM] Update on Development Application DA05/0223 for a restaurant at Lot 1 DP 553728, No. 4 Wharf Street Tweed Heads

#### REASON FOR CONFIDENTIALITY:

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

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

#### C 59

That:-

1. Council requests the occupier of the premises at No. 4 Wharf Street, Tweed Heads, known as the "iBar" to lodge an extra S96 application to modify Development Consent DA05/0223 and building certificate application, incorporating all unauthorised building works on the subject site. If such applications are not lodged within 21 days of any Council resolution, Council officers will seek further legal advice about an appropriate cause of action in regard to the unauthorised building works, including the option of the issue of a penalty infringement notice.
2. Outstanding contribution fees relating to DA05/0233 not be pursued and that only the contributions paid to date are recognised as credit for any future development of the subject site.

The Motion was **Carried**

**FOR VOTE - Unanimous**