



**TWEED**  
SHIRE COUNCIL

**Mayor:** Cr Warren Polglase

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

# Minutes

## Planning and Regulation Reports

### **Ordinary Council Meeting**

### **Tuesday 15 June 2010**

held at Murwillumbah Cultural & Civic Centre  
commencing at 4.30pm

### **COUNCIL'S CHARTER**

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

Tweed Shire Council has the following charter:

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

The Meeting commenced at 4.34pm.

## **IN ATTENDANCE**

Cr W Polglase (Mayor), Cr P Youngblutt (Deputy Mayor), Cr D Holdom, Cr B Longland, Cr K Milne, Cr K Skinner, Cr J 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), Mrs Meredith Smith (Corporate Governance) and Mrs Kerrie McConnell (Minutes Secretary).

## **ABORIGINAL STATEMENT**

The Mayor acknowledged the Bundjalung Aboriginal Nation with the following statement:

*"We wish to recognise the generations of the local Aboriginal people of the Bundjalung Nation who have lived in and derived their physical and spiritual needs from the forests, rivers, lakes and streams of this beautiful valley over many thousands of years as the traditional owners and custodians of these lands."*

## **REPORTS THROUGH THE GENERAL MANAGER**

### **REPORTS FROM THE GENERAL MANAGER**

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

**10 [PR-CM] Development Application DA08/1171.01 for an amendment to Development Consent DA08/1171 for Addition of Deck to Existing Surf Life Saving Club at Lot 7010 DP 1055324; Lot 2 DP 1083851, Pandanus Parade, Cabarita Beach**

**381**

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that Development Application DA08/1171.01 for an amendment to DA08/1171 for addition of deck to existing surf life saving club at Lot 7010 DP 1055324; Lot 2 DP 1083851, Pandanus Parade, Cabarita Beach be approved subject to the amendment of the following conditions: -

1. Delete Condition No. 1 and replace it with Condition No. 1A which reads as follows:

1A. The development shall be completed in accordance with the Statement of Environmental Effects and Plans Numbered 290.3 Sheet 01, 02, 03, 07, 08, 09 and 10, prepared by Tweed Coast Design Drafting and dated June 2009, except where varied by the conditions of this consent.

[GEN0005]

2. Delete Condition No. 2 and replace it with Condition No. 10.1 which reads as follows:

10.1. Prior to the issue of a Construction Certificate plans detailing adequate privacy screening to the south and western facade of the building and deck, to protect privacy of adjacent units, shall be submitted to Council and approved by the General Manager or his Delegate

[PCCNS01]

3. Delete Condition No. 3 and replace it with Condition No. 3A which reads as follows:

3A. Section 94 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction 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 will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

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

(a) Tweed Road Contribution Plan:

11.3678 Trips @ \$930     \$10,572.05

S94 Plan No. 4

Sector7\_4

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 4.1 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 Car Parking

7 space/s @ \$13,619      \$95,333

S94 Plan No. 23

[PCC0215/PSC0175]

4. Delete Condition No. 4 and replace it with Condition No. 4A which reads as follows:

4A. 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 Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Water DSP6:      0.4244 ET @ \$10346.9      \$4391.22

Sewer Hastings Point:      0.6366 ET @ \$4972.1      \$3165.24

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

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

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

[PCC0265/PSC0165]

5. Delete Condition No. 9 and replace it with Condition No. 9A which reads as follows:

9A. The applicant shall pay contributions for 7 car parking spaces in accordance with section 94 plan number 23 - Off-Site Parking.

[PCCNS02]

6. The following conditions are to be added to the amended development consent:

2.1. The approved deck is not to exceed 106.1m<sup>2</sup> in area.

[GENNS02]

2.2. The deck is only to be used for a maximum of two functions each month and Sunday each week.

[GENNS03]

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

[POC1055]

The Motion was **Carried**

**FOR VOTE - Unanimous**

- 11 **[PR-CM] Consideration of Alternative Contribution Payment Options for Development Application DA08/1171.01 for an Amendment to Development Consent DA08/1171 for the Addition of a Deck to Existing Surf Life Saving Club at Lot 7010 DP 1055324; Lot 2 DP 108**

382

**Cr J van Lieshout  
Cr K Milne**

**PROPOSED** that:

1. In terms of the required Section 94 and Section 64 contributions relating to the Section 96 Application for amendment to Development Consent DA08/1171.01 for the addition of a deck to an existing surf life saving club at Lot 7010 DP 1055324; Lot 2 DP 1083851 Pandanus Parade, Cabarita Beach Council waives all Section 94 and Section 64 contributions relating to this application.
2. Council officers bring back a report identifying the sources of funding to be donated to the Cabarita Beach Surf Life Saving Club.

The Motion was **Lost**

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

383

**Cr B Longland**

**Cr K Skinner**

**RESOLVED** that:

1. In terms of the required Section 94 and Section 64 contributions relating to the Section 96 Application for amendment to Development Consent DA08/1171.01 for the addition of a deck to an existing surf life saving club at Lot 7010 DP 1055324; Lot 2 DP 1083851 Pandanus Parade, Cabarita Beach:
  - Council invites the Cabarita Beach Surf Life Saving Club to make application to enter into a loan with Council for \$56,730.76 (being 50% of the current Tweed Roads Contribution Plan, Shirewide Car Parking and Section 64 contributions) at terms of 7% over 10 years with a minimum of two executives of the Club providing personal guarantees against the debt. Subject to satisfactory arrangements being made in relation to the proposed loan arrangement above, Council will make a donation of \$56,730.76 being 50% of the current contributions as detailed in Conditions 3A and 4A of Development Consent for DA08/1171.01.
2. Council officers bring back a report identifying the sources of funding to be donated to the Cabarita Beach Surf Life Saving Club.

The Motion was **Carried**

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

**DECLARATION OF INTEREST**

**Cr P Youngblutt** declared an Interest in this item, left the Chamber at 5.43pm and took no part in the discussion or voting. The nature of the interest is that Cr P Youngblutt's brother is a contractor for the proponent.

**12 [PR-CM] Development Application DA10/0107 to Obtain Development Consent for a Fence Already Constructed within the Property Boundary at Lot 156 DP 628026, Creek Street, Hastings Point**

**384**

**Cr D Holdom**  
**Cr B Longland**

**RESOLVED** that:

- A. Council refers the approval notice to the Department of Environment Climate Change and Water to investigate whether such works need any separate additional approvals under the National Parks and Wildlife Act 1974 or the Threatened Species Conservation Act 1995.

- B. Council refers the approval notice to the Far North Coast Weeds Authority in relation to the presence of noxious weeds on the site, for this authority to investigate if necessary.
- C. Development Application DA10/0107 to obtain development consent for a fence already constructed within the property boundary at Lot 156 DP 628026, Creek Street, Hastings Point be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Labelled "Fence Location Plan" prepared by Planit Consulting and dated May 2010, except where varied by the conditions of this consent.
2. The proposed fence is to be constructed of cyclone wire mesh (no barbed wire) to a height no greater than 1.2m with star pickets at approximately 2.5m spacing.
3. No vegetation is to be removed (cleared) to accommodate the proposed fence.
4. Within 30 days of this consent all barbed wire is to be removed from the fence within the land zoned 7(a) Environment Protection (in accordance with Tweed LEP 2000) to the satisfaction of Council's General Manager or his delegate.
5. Within 30 days of this consent, all materials associated with the fence construction, including old and/or left-over star pickets and barbed wire are to be removed from the land zoned 7(a) Environment Protection (in accordance with Tweed LEP 2000) to the satisfaction of Council's General Manager or his delegate.
6. Within 30 days of this consent, four (4) sections (approximately 30 cm wide by 25 cm high) along the bottom of the fence behind the existing houses (where two fences run closely and parallel to each other) are to be provided to allow fauna caught between the two fences to escape. These works are to be undertaken to the satisfaction of Council's General Manager or his delegate.
7. Within 90 days of this consent, a weed control plan for the prevention of weeds around the fence to the adjacent wetland areas is to be prepared, submitted to Council for approval, and implemented to the satisfaction of Council's General Manager or delegate.
8. Approves the application with corresponding Penalty Infringement notices for unauthorised works.

The Motion was **Carried**

**FOR VOTE - Voting - Unanimous**  
**ABSENT. DID NOT VOTE - Cr P Youngblutt**

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***Cr P Youngblutt has returned from temporary absence at 05:47 PM***

- 13            **[PR-CM] Major Project Application MP07\_0089 for Construction of a Tourist Resort and Associated Community Facilities Comprising 180 Unit/Bungalows, Conference Centre, Restaurant, Bar, Retail Premises, Resort Associated Amenities, Aboriginal Interpretive**

**385**

**Cr K Skinner**

**Cr D Holdom**

**RESOLVED** that Council:

1.    Endorses that the attached draft submission relating to Major Project Application MP07\_0089 be forwarded to the NSW Department of Planning.
2.    Requests confirmation from the Minister of Land and Property Management that all the income from Lot 490 will be allocated to the maintenance and embellishment of the Tweed Coast Crown Reserve in accordance with Council's Coastline Management Plan.

The Motion was **Carried**

***FOR VOTE - Unanimous***

- 14            **[PR-CM] Development Application DA09/0685 for a Two (2) Lot Subdivision at Lot 2 DP 772129, Hogan's Road, Bilambil**

**386**

**Cr J van Lieshout**

**Cr P Youngblutt**

**RESOLVED** that Development Application DA09/0685 for a two (2) lot subdivision at Lot 2 DP 772129, Hogans Road, Bilambil be approved in principle, and Council officers bring back a report with conditions for consideration.

The Motion was **Carried**

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

Cr W Polglase left the meeting at 06:03 PM and Cr P Youngblutt took the Chair.

**15 [PR-CM] Development Application DA09/0649 for the Demolition of Existing Structures and Construction of a Six (6) Storey Multi Dwelling Housing with Basement Carparking at Lot 7 DP 232124, No. 4 Endeavour Parade, Tweed Heads**

**387**

**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, and
- B. Development Application DA09/0649 for the demolition of existing structures and construction of six (6) storey multi dwelling housing with basement carparking at Lot 7 DP 232124, No. 4 Endeavour Parade Tweed Heads be approved subject to the following conditions: -

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and:
  - Project No 5404 Plan No 2DA.01 Rev 1 (Basement) prepared by Pat Twohill Designs Pty Ltd and dated 27 January 2010
  - Project No 5404 Plan No 2DA.02 Rev 1 (Level 1) prepared by Pat Twohill Designs Pty Ltd and dated 27 January 2010
  - Project No 5404 Plan No 2DA.03 Rev 1 (Level 2, 3, 4) prepared by Pat Twohill Designs Pty Ltd and dated 27 January 2010
  - Project No 5404 Plan No 2DA.04 Rev 1 (Level 5) prepared by Pat Twohill Designs Pty Ltd and dated 27 January 2010
  - Project No 5404 Plan No 2DA.05 Rev 1 (Level 6) prepared by Pat Twohill Designs Pty Ltd and dated 27 January 2010
  - Project No 5404 Plan No 2DA.06 Rev 1 (Roof Level) prepared by Pat Twohill Designs Pty Ltd and dated 27 January 2010
  - Project No 5404 Plan No 2DA.09 Rev 2 (North Elevation) prepared by Pat Twohill Designs Pty Ltd and dated 2 March 2010
  - Project No 5404 Plan No 2DA.10 Rev 2 (South Elevation) prepared by Pat Twohill Designs Pty Ltd and dated 2 March 2010
  - Project No 5404 Plan No 2DA.11 Rev 1 (East Elevation / West Elevation) prepared by Pat Twohill Designs Pty Ltd and dated 27 January 2010,

except where varied by the conditions of this consent.

[GEN0005]

2. 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]

3. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property.

[GEN0135]

4. The applicant shall arrange for a site inspection to be carried out with Council's Environmental Health Officer and key representatives involved in the dewatering activity including consultants and personnel responsible under any Dewatering Management Plan approved by Council's General Manager or his delegate. Such site inspection shall be arranged and carried out prior to the commencement of any offsite dewatering activity occurring.

[GEN0180]

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

[GEN0265]

6. Any proposed fence or gate structure erected across the 3m wide stormwater easement is to be a maximum height of 1.2m and is to be attached to supports located beyond the easement or is to be readily removable in the event that Council requires access to the easement. Any such fence or gate structure is to be permeable to allow the passage of flood flows (minimum 90% void space), or be attached in a manner that will allow the fence or gate to collapse under flood flow.

[GENNS01]

7. Management of construction waste, ongoing waste management during site occupation and garbage collection arrangements shall be in accordance with the Waste Management Plan (report no. 2009.113) prepared by HMC Environmental Consulting Pty Ltd and dated 22 March 2010.

[GENNS02]

8. No structures are to be located on the roof.

[GENNS03]

#### PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. The developer shall provide 12 parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

Full design detail of the proposed parking and manoeuvring areas including integrated landscaping shall be submitted to Tweed Shire Council and approved by the General Manager or his delegate prior to the issue of a construction certificate.

[PCC0065]

10. Section 94 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

These charges include indexation provided for in the S94 Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

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

(a) Tweed Road Contribution Plan:

3.9 Trips @ \$656 per Trips \$2558  
(\$596 base rate + \$60 indexation)

S94 Plan No. 4

Sector1\_4

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:

2.125 ET @ \$792 per ET \$1683  
(\$792 base rate + \$0 indexation)

S94 Plan No. 11

- 
- (c) Bus Shelters:
    - 2.125 ET @ \$60 per ET \$128
    - (\$60 base rate + \$0 indexation)
    - S94 Plan No. 12
  - (d) Eviron Cemetery:
    - 2.125 ET @ \$120 per ET \$255
    - (\$101 base rate + \$19 indexation)
    - S94 Plan No. 13
  - (e) Extensions to Council Administration Offices  
& Technical Support Facilities
    - 2.125 ET @ \$1759.9 per ET \$3739.79
    - (\$1759.9 base rate + \$0 indexation)
    - S94 Plan No. 18
  - (f) Cycleways:
    - 2.125 ET @ \$447 per ET \$950
    - (\$447 base rate + \$0 indexation)
    - S94 Plan No. 22
  - (g) Regional Open Space (Casual)
    - 2.125 ET @ \$1031 per ET \$2191
    - (\$1031 base rate + \$0 indexation)
    - S94 Plan No. 26
  - (h) Regional Open Space (Structured):
    - 2.125 ET @ \$3619 per ET \$7690
    - (\$3619 base rate + \$0 indexation)
    - S94 Plan No. 26
  - (i) Tweed Heads Master Plan:
    - 1 MDU @ \$1047 per MDU \$1047
    - (\$1047 base rate + \$0 indexation)
    - S94 Plan No. 27

[PCC0225]

11. 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 Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Water DSP4: 1.35 ET @ \$10709 per ET	\$14457.20
Sewer Banora: 2.5 ET @ \$5146 per ET	\$12865

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

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

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

[PCC0265]

12. 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]

13. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for 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]

14. 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]

15. The site shall be filled such that it complies with Section A3 – "Development of Flood Liable Land" of Council's consolidated Tweed Development Control Plan and graded at a minimum of 1% so that it drains to Endeavour Parade. Where necessary, perimeter drainage shall be provided to ensure minimal impact on adjoining properties. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding or runoff impacting on neighbouring properties.

A plan of proposed drainage is to be submitted and approved by the PCA prior to the issue of a construction certificate. Drainage must be installed and operational prior to commencement of any building work.

All fill and cut batters and retaining walls shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

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

[PCC0585]

17. The basement car parking is to be protected against the inflow of water to a level of 500mm above the design flood level of RL2.60m AHD in accordance with Tweed Shire Council Development Control Plan Part A3 - Development of Flood Liable Land. This immunity shall be provided at all accesses including external stairs to the basement car park. The pump system shall be designed for a storm event with a 10 year average return interval (ARI 10) and shall have failsafe measures in place such that property (onsite and adjacent) is protected against pump failure. Consequences of the 100 year ARI storm event must also be addressed. Details of the basement stormwater pump-out system shall be submitted to and approved by the Principle Certifying Authority prior to the issue of a Construction Certificate.

Installed pumps must be designed and installed in accordance with Section 9 of AS/NZS3500.3.2 1998 *"National Plumbing and Drainage – Part 3.2: Stormwater Drainage – Acceptable Solutions"*

[PCC0685]

18. 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]

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

- (a) Removal of existing laybacks and the construction of a new driveway access in accordance with Council's "Driveway Access To Property – Part 1 – Design Specification".
- (b) Construction of vertical face kerb and gutter (with associated sub-surface) along the full frontage of the existing allotment to Endeavour Parade, on an approved alignment, to Tweed Shire Council specifications.

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

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

[PCC0895]

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

[PCC0945]

21. Any sheet piling that utilises ground anchors that extend under public roads or land must not be used unless the applicant or owner enter into a contract regarding liability for the ground anchors and lodges an application under Section 138 of the Roads Act together with an application fee of \$10,000 and a bond of \$25,000 for each road frontage. This bond will be refunded upon the removal of the ground anchors. If the ground anchors are not removed prior to the occupation/use of the development, the bond shall be forfeited to Council.

[PCC0955]

22. 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]

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

[PCC1195]

24. The carwash bay shall be bunded to prevent contamination of basement stormwater. Treated carwash runoff shall be discharged to the sewer (if



levels permit) and shall be subject to a separate Trade Waste Application prior to the issuing of a Construction Certificate.

[PCCSN01]

#### PRIOR TO COMMENCEMENT OF WORK

25. 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]

26. Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining premises shall be notified accordingly prior to commencement of such operations.

[PCW0125]

27. 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]

28. 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]

29. 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]

30. 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]

31. 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]

32. 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]

33. Prior to start of works the PCA is to be provided with a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and be supported by Geotechnical assessment of the founding material.

[PCW0745]

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

[PCW0985]

35. 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

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

[DUR0005]

37. 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]

38. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which

Council deem to be reasonable, the noise from the construction site is not to exceed the following:

A. Short Term Period - 4 weeks.

$L_{Aeq, 15 \text{ min}}$  noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

B. Long term period - the duration.

$L_{Aeq, 15 \text{ min}}$  noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0215]

39. All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded to the satisfaction of Council's General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation.

[DUR0225]

40. All waters pumped from the site in the dewatering process are to be treated with an effective deodoriser to the satisfaction of Council's General Manager or his delegate to neutralise any offensive odours. The point of discharge shall be approved by Council's General Manager or his delegate prior to installation and shall include a water sampling outlet.

[DUR0235]

41. 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]

42. Pumps used for dewatering operations are to be electrically operated. Diesel pumps are not to be used unless otherwise approved by the Tweed Shire Council General Manager or his delegate.

[DUR0255]

43. 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]

44. 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]

45. 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]

46. 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]

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

[DUR0445]

48. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Occupational Health and Safety Regulation 2001.

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

[DUR0645]

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

[DUR0815]

50. 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]

51. Provision to be made for the designation of 1 durable and pervious car wash-down area/s. The area/s must be appropriately sized and identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.

[DUR0975]

52. 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]

53. 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]

54. 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]

55. 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]

56. 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]

57. 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]

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

[DUR1905]

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

[DUR1925]

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

[DUR1955]

61. 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]

62. Backwash from the swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.  
[DUR2085]
63. 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]
64. 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]
65. Council's Environmental Health Officer shall be advised within 24 Hours in the event of detection of any failure associated with the dewatering activity being carried out on the site.  
[DUR2315]
66. 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]
67. 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]
68. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.  
[DUR2505]
69. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.  
[DUR2515]
70. 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]

71. 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]

72. 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]

73. Where two (2) or more premises are connected by means of a single water service pipe, individual water meters shall be installed to each premise beyond the single Council water meter.

[DUR2615]

74. The area below the spa is to be graded, drained and ventilated.

[DUR2795]

75. The names and 24 hour contact phone numbers of the site manager, project manager and all other persons provided with responsibilities under the provisions of the Amended Dewatering Management Plan for 4 Endeavour Parade, Tweed Heads prepared by HMC Environmental Consulting Pty Ltd dated March 2010 (Report: HMC2009.113) shall be provided to Council's Environmental Health Officer prior to the commencement of dewatering operations.

76. Prior to the commencement of de-watering operations an examination of the quantity of pre-existing sediment within the stormwater drainage network that is intended to receive the de-watering discharge shall be undertaken by methods considered acceptable to Council's Stormwater Maintenance Engineer. Closed circuit television (CCTV) footage and a report of the findings of the examination shall be provided to Council's Stormwater Maintenance Engineer prior to the commencement of de-watering operations.

77. Prior to the commencement of de-watering operations the applicant or their nominated representative shall consult with Council's Stormwater Maintenance Engineer in respect to the most appropriate method of connection of the de-watering system to Council's stormwater drainage system. The applicant or their nominated representative shall comply with any and all directions as may be provided by Council's Stormwater Maintenance Engineer.

78. All dewatering operations shall be carried out in accordance with the provisions of the Amended Dewatering Management Plan for 4 Endeavour Parade, Tweed Heads prepared by HMC Environmental Consulting Pty Ltd dated March 2010 (Report: HMC2009.113). A copy of the Plan shall be provided to the site manager, project manager and all other persons



provided with responsibilities under the provisions of the Plan. In addition a copy of the Plan shall be kept onsite while dewatering operations are being carried out.

79. Hourly inspections extending over a 24 hour period of the stormwater discharge network that is receiving dewatering discharge shall be undertaken at the responsibility of the project manager during rainfall events. If the combined stormwater and dewatering flows are exceeding the capacity of the stormwater network, dewatering must temporarily cease until the peak flows from the catchment have subsided.
80. The frequency of the monitoring regime for the various parameters as listed within Section 14 of the Amended Dewatering Management Plan for 4 Endeavour Parade, Tweed Heads prepared by HMC Environmental Consulting Pty Ltd dated March 2010 (Report: HMC2009.113) shall be increased at the direction of Council's Environmental Health Officer.
81. Upon completion of the dewatering operations, the applicant shall arrange for an inspection of any dewatering connection point to Council's stormwater system with Council's Stormwater Maintenance Engineer. The applicant shall comply with any directions issued by Council's Stormwater Maintenance Engineer in respect to the dewatering connection point.

[DURNS01]

82. Swimming pool and spa pumps, air conditioning units, heat pump water systems and any other mechanical plant and equipment shall be located and installed so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.

[DURNS02]

#### PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

84. Prior to the issue of an Occupation 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 civil works approved under Section 138 of the Roads Act and Section 68 of the Local Government Act as set out in Councils Fees and Charges current at the time of payment which will be held by Council for a period of 6 months from the date on which the Occupation 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.

[POC0165]

85. 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]

86. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

87. 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]

88. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 138 of the Roads Act 1993.

[POC0745]

89. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining works in accordance with Councils Development Design and Construction Specifications.

[POC0755]

90. 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]

91. All landscaping is to be completed in accordance with the approved plans at the developer's expense prior to the issue of an occupation certificate.

[POCNS01]

92. 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) Restrictions as to user in the event of flood events to ensure access for residents of lower floor units to PMF (probable maximum flood) flood free refuge areas located in the upper floor units.

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.

[POCNS02]

## USE

93. 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]

94. All wastes shall be collected, stored and disposed of in accordance with any approved Waste Management Plan or to the satisfaction of the General Manager or his delegate.

[USE0875]

95. 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]

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

[USE1305]

97. All externally mounted air conditioning units, heat pump water systems, swimming pool and spa pumps and any other mechanical plant and equipment shall be acoustically treated so as to avoid the creation of offensive or intrusive noise to any occupant of neighbouring or adjacent premises.

[USENS01]

98. Swimming pool and spa pumps, air conditioning units, heat pump water systems and any other mechanical plant and equipment shall not be operated should it be heard in a habitable room of a residence during restricted hours or at any other time should the noise from the article be deemed to be offensive as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.

[USENS02]

GENERAL TERMS OF APPROVAL UNDER SECTIONS 89, 90 & 91 OF THE WATER MANAGEMENT ACT 2000 (Water use approval, water management work approval or activity approval under Part 3 of Chapter 3)

- All works shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
- All works are to be constructed in accordance with Report HMC 2009.113 Dewatering Management Plan March 2010 and/or with conditions of development consent.
- All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
- The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.

- All vegetation clearing must be authorized under the Native Vegetation Conservation Act 1997, if applicable.
- All precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works shall be taken.
- The water extracted shall not be used for any purpose other than temporary construction dewatering.
- Any water extracted by the works must not be discharged into any watercourse or groundwater if it would pollute that water.
- Polluted water shall not be discharged into a river or lake other than in accordance with the conditions of a licence granted under the Protection of the Environment Operations Act 1997.
- Tailwater drainage shall not be allowed to discharge onto adjoining roads, Crown land or other persons land, or into any river as defined in the Water Act 1912, or a groundwater aquifer, by surface or sub-surface drains or pipes or any other means.
- Water must not be discharged unless the ph of the water is between 6.5 and 8.5, or the water has been treated to bring the ph to a level between 6.5 and 8.5 prior to discharge, or the water is discharged through the Council's sewerage treatment system.
- The ph of any water extracted must be tested prior to the commencement of discharge and at least twice daily thereafter and a record kept of the date, time and result of each test in the site log.
- Works used for the purposes of the conveying, distributing or storing water from the dewatering work shall not be constructed or installed so as to obstruct the free passage of floodwaters flowing in, to or from a river or lake.
- Authorised officers of the NSW Office of Water (NOW), or any other duly authorized officer, must be granted unrestricted access to the works either during or after construction, for the purpose of carrying out any inspection or test of the works and its fittings or to take samples of water or material in the work.
- Any works deemed necessary by NOW for the protection or proper maintenance of the works, or for the control of the water extracted or prevention of pollution of groundwater, shall be undertaken on instruction to do so.
- A record shall be maintained of the actual volume of groundwater pumped (in kilolitres or megalitres) from the dewatering works, the discharge rate (in litres per second) and duration of pumping (number of days) and this information is to be provided to NOW if and when requested.
- A record shall be maintained of the actual volume and quality of any tailwater generated by the dewatering and this information is to be provided to NOW if and when requested.
- A record shall be maintained of the groundwater levels beneath and around the construction site throughout the duration of the dewatering and for a period of at least two (2) months following cessation of the required

pumping, and this information is to be provided to NOW if and when requested.

- NOW may request the provision of interim information relating to the records described in the above three (3) conditions at any time during construction.

The Motion was **Carried**

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

Cr W Polglase has returned from temporary absence at 06:08 PM and took the Chair.

**16 [PR-CM] Development Application DA10/0146 for a Granny Flat Above Existing Garage at Lot 1 DP 848877, No. 12 Elizabeth Street, Fingal Head**

**388**

**Cr D Holdom**  
**Cr K Skinner**

**RESOLVED** that:

1. State Environmental Planning Policy No. 1 objection to Clause 51A of Tweed Local Environmental Plan 2000 regarding multi dwelling housing densities in zone 2a be supported and the concurrence of the Director-General of the Department of Planning be assumed.
2. Development Application DA10/0146 for a granny flat above existing garage at Lot 1 DP 848877, No. 12 Elizabeth Street, Fingal Head be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 1 of 7, 2 of 7, 3 of 7, 4 of 7, 5 of 7, 6 of 7 and 7 of 7 prepared by Parameter Designs and dated 24 February 2010, except where varied by the conditions of this consent.  
[GEN0005]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.  
[GEN0115]
3. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.  
[GEN0265]
4. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.  
[GEN0300]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

[PCC0945]

PRIOR TO COMMENCEMENT OF WORK

6. 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]

7. 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]

8. 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]

9. Prior to commencement of work on the site any required erosion and sedimentation control measures are to be installed, where required, to the satisfaction of the Principal Certifying Authority.

[PCW0985]

10. 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

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

[DUR0005]

12. 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]

13. 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]

14. 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]

15. 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]

16. 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]

17. 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]

18. 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]

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

[DUR2255]

20. 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]

21. 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]



22. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

[DUR2505]

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

[DUR2515]

24. A new overflow relief gully is to be provided 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 if the overflow relief gully which serves the existing dwelling will not protect the new dwelling.

[DUR2545]

25. 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

26. 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]

27. 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]

28. A restriction is to be placed on the title of the land prior to the release of the occupation certificate under the provisions of the Conveyancing Act 1919 identifying that subdivision of the dual occupancy is not permitted.

[POCNS01]

#### USE

29. 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]

The Motion was **Carried**

***FOR VOTE - Unanimous***

**17 [PR-CM] Accreditation of Council Building Surveyors**

**389**

**Cr D Holdom**

**Cr B Longland**

**RESOLVED** that:

1. Council supports the recommendation for each of the Building Surveyors currently employed by Tweed Shire Council to be accredited at levels appropriate to their level of experience, and
2. Delegation is provided to the General Manager for the purposes of Section 5(1A) of the Building Professionals Act 2005, under the provisions of Section 377 of the Local Government Act 1993 to endorse each of applications for accreditation.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**18 [PR-CM] Asbestos Management Policy - Version 1.0**

**390**

**Cr D Holdom**

**Cr B Longland**

**RESOLVED** that Council adopts the attached Draft Asbestos Management Policy Version 1.0.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**19 [PR-CM] Joint Regional Planning Panels - Review by the Department of Planning**

**391**

**Cr B Longland**

**Cr K Milne**

**RESOLVED** that:

1. Council endorses that the Mayor writes to the NSW Minister for Planning in response to his letter dated 18 May 2010 relating to the review of the State Government's Joint Regional Planning Panels, advising:

That Council supports the return of certain Joint Regional Planning Panel applications for the determination by Council officers, only in accordance with Council's current adopted policy of development application delegations, as outlined in this report; and

2. Further to the correspondence referred to in Item 1, that Council requests the Minister to clarify whether those areas of the Tweed Shire already the subject of detailed Development Control Plans and Locality Plans are suitable to enable further delegatory powers of determination for certain Joint Regional Planning Panel development applications to be offered to Council.

The Motion was **Carried**

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

***AGAINST VOTE - Cr D Holdom***

**20 [PR-CM] State Emergency Services/Unlimited Arts - Development of Site**

**392**

**Cr K Milne**

**Cr D Holdom**

**RESOLVED** that Council:

1. Endorses the permanent location of the State Emergency Service Tweed Heads Unit and Tweed Unlimited Arts on Lot 682 DP 41192 Pioneer Parade, Banora Point.
2. Requests from the Land and Property Management Authority to create an additional purpose of the reserve for emergency service facilities to ensure the long term tenure of the State Emergency Services facility.
3. Prepares a works schedule and a Section 94 Plan for the support of State Emergency Services in Banora Point, Murwillumbah, Pottsville and an outpost at Kings Forest.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**21 [PR-CM] Extinguishment of an Existing Easement for Batter Variable Width at Lot 1147 DP 1115395 Seabreeze Boulevard, Pottsville**

**393**

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that:

1. Council approves the extinguishment of the Easement for Batter Variable Width twelfthly referred to in the Section 88B instrument annexed to DP 1072580, subject to the applicant meeting all survey, legal and Conveyancing costs; and
2. All documentation be executed under the Common Seal of Council.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**22 [PR-CM] Pottsville Industrial Lands - Rezoning Application**

**394**

**Cr D Holdom  
Cr P Youngblutt**

**PROPOSED** that:

1. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(e) and Section 10A(g) of the Local Government Act 1993, because it contains information that would, if disclosed:
  - (e) prejudice the maintenance of law
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege
2. Council endorses the boundary redefinition of the land subject to the rezoning as identified in Annexure 1 – Excluded Area, contained in this report, being that land bordered with a heavy red line.

3. Council defers proceeding with legal action in relation to vegetation clearing on the basis of the landowner agreeing to a revegetation management strategy in accordance with Resolution No. 4 below.
4. Council Officers negotiate with the landowner for the restoration, revegetation, contributory off-set planting, maintenance, and protection of vegetation, as necessary, through a legally binding agreement, and that a satisfactory resolution of these matters be concluded prior to the gazettal of any rezoning under GT1/LEP/2000/85 (Amendment No. 85).
5. Land identified as unsuitable for rezoning for urban purposes be rezoned to reflect the environmental qualities and constraints of the land.

395

**AMENDMENT**

**Cr J van Lieshout  
Cr W Polglase**

**RESOLVED** that this item be deferred for a workshop with staff including a presentation by the proponents to Councillors.

***Cr D Holdom left the meeting at 06:24 PM***

The Amendment was **Carried** - (Minute No 395 refers)

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

**Cr D Holdom has returned from temporary absence at 06:26 PM**

The Amendment on becoming the Motion was **Carried** - (Minute No 395 refers)

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

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

396

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that Council notes the May 2010 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**LATE ITEM**

**397**

**Cr W Polglase  
Cr D Holdom**

**RESOLVED** that Item a23 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**a23 [PR-CM] Development Application DA10/0020 for a Brothel at Lot 411 DP 859933, No 36 Enterprise Avenue, Tweed Heads**

**398**

**Cr D Holdom  
Cr K Skinner**

**PROPOSED** that Council in respect of its decision to refuse DA10/0020 for a brothel at Lot 411 DP859933, 36 Enterprise Avenue, Tweed Heads South, engages its solicitors to negotiate Consent Orders for the brothel.

The Motion was **Lost**

**FOR VOTE - Cr D Holdom, Cr K Skinner**

**AGAINST VOTE - Cr P Youngblutt, Cr B Longland, Cr K Milne, Cr J van Lieshout, Cr W Polglase**

**399**

**Cr J van Lieshout  
Cr P Youngblutt**

**RESOLVED** that Council in respect of its decision to refuse DA10/0020 for a brothel at Lot 411 DP859933, 36 Enterprise Avenue, Tweed Heads South, engages its solicitors to defend the refusal of the brothel.

The Motion was **Carried** – (Minute No 389 refers)

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

**AGAINST VOTE - Cr D Holdom, Cr K Skinner**

