



**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 16 February 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 4.30pm.

## **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), Mr Neil Baldwin (Manager Corporate Governance/Public Officer) and Mrs Maree Morgan (Minutes Secretary).

## **ORDINARY ITEMS FOR CONSIDERATION**

### **REPORTS THROUGH THE GENERAL MANAGER**

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

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

62

**Cr D Holdom**  
**Cr P Youngblutt**

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

The Motion was **Carried**

***FOR VOTE - Unanimous***

#### **9 [PR-CM] Proposed Review of Tweed Council's Section 149 Certificate Processes – Removal of Current Additional Matters on Section 149(2) Certificates Created through Council Resolutions and Council Practice**

63

**Cr B Longland**  
**Cr K Skinner**

**RESOLVED** that: -

1. Council endorses the rescission of the following previous resolutions and change in practice relating to a requirement that certain matters be placed on all Section 149(2) Certificates, and to re-locate these notations to the Section 149 (5) Certificates:

**Tweed Council Practice**

**Height under Tweed Local Environmental Plan 2000**

*The land is restricted to a 3 Storey height limit under Tweed Local Environmental Plan 2000.*

**Tweed Council resolutions:**

**Aircraft Noise**

*The subject land is not affected by aircraft noise.*

**Tweed Council resolutions:**

Council Meeting, 16 November, 1994, Minute Number C246:

*“That Council include a notation on Section 149 Certificates for all properties located in areas affected by aircraft noise in excess of 20 ANEF 2010”.*

Council Meeting, 1 March 1995, Minute Number 345:

*“2. Council re-confirms that advice be included in Section 149 Certificates that land affected by the 20+ ANEF 2010 contour is so affected, and based upon legal advice received.”*

**Future Road Corridor**

*The subject land is not identified as being subject to future road corridor as identified in Tweed Road Contribution Plan No. 4 (as referred to in Section 26 of the EP&A Act 1979).*

**Future Road Widening**

*The subject land is not identified as being subject to future road widening as identified in Tweed Road Contribution Plan No. 4 (as referred to in Section 26 of the EP&A Act 1979).*

**Tweed Council resolution:**

Council Meeting, 22 April, 2008,  
(Operations Committee Minute Number O85 and Council Minute No 42):

*“That a notation be included on Section 149 Certificates of properties as affected by the proposed road corridors under the TRCP have their 149 Certificates notated with the following:-*

1. *The subject land is identified as being subject to future road corridor as identified in Tweed Road Contribution Plan no. 4 (as referred to in Section 26 of the EP&A Act 1979).*

Or

2. *The subject land is identified as being subject to future road widening as identified in Tweed Road Contribution Plan no. 4 (as referred to in Section 26 of the EP&A Act 1979)."*

**Farmland Protection**

*The land is identified as Committed Urban Uses and Rural Residential Zones (Farmland Protection Project) on the map referred to in Section 117(2) Direction No. 14 dated 30 September 2005."*

**Council Resolution:**

Council Meeting, 27 March, 2007  
(Planning Committee Minute Number P34 and Council Minute No 46):

*"That a notation be included in on Section 149(2) Certificates indicating if lands is Farmland of State or Regional Significance as identified on the map referred to in Section 117(2) Direction No. 14 dated 30 September 2005."*

2. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2)(e) and (g):

*(e) information that would, if disclosed, 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*

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**

**10 [PR-CM] Beach Location Indicators and Access Signage**

**64**

**Cr P Youngblutt**  
**Cr J van Lieshout**

**RESOLVED** that Council:

1. Adopts the Emergency Beach Location Indicator Recommendation Report, to install and maintain beach location indicators on various beaches along the

Tweed Coast, prepared by the Tweed Local Emergency Management Committee, and adopted through the meeting of 10 November 2009; and

2. Supports the installation and maintenance of new Emergency Beach Access Signage at various locations as identified in this report to compliment the new beach location indicators.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**11 [PR-CM] Development Application DA09/0566 for a Two (2) Lot Subdivision at Lot 2 DP 701967, No. 611 Cudgen Road, Cudgen**

**65**

**Cr D Holdom  
Cr K Skinner**

**RESOLVED** that Development Application DA09/0566 for a two (2) lot subdivision at Lot 2 DP 701967, No. 611 Cudgen Road, Cudgen be approved subject to the following conditions: -

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan No. DWG 07135.1 prepared by Mark Buckman & Co Consulting Surveyors and dated 1 July 2009, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0125]

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]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

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

- 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]

5. 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]

6. 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]

7. 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]

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

8. 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]

9. 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.

A Subdivision Certificate shall NOT be issued unless the Certifying Authority is satisfied provisions pursuant to Section 109J of the EP&A Act, 1979 have been complied with and the Certifying Authority has sighted Council's contributions sheet and Certificate of Compliance signed by an authorised officer of Council.

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

|                   |                       |         |
|-------------------|-----------------------|---------|
| Water DSP5:       | 1 ET @ \$10709 per ET | \$10709 |
| Sewer Kingscliff: | 1 ET @ \$5146 per ET  | \$5146  |

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**

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]

10. 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 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:

6.5 Trips @ \$861 per Trips \$5597  
((\$782 base rate + \$79 indexation)  
S94 Plan No. 4  
Sector6\_4

(b) West Kingscliff – Drainage:

0.09 HA @ \$42720 per HA \$3844.80  
((\$2980.1 base rate + \$39739.9 indexation)  
DCP Section B4  
S94 Plan No. 7

(c) Shirewide Library Facilities:

1 ET @ \$792 per ET \$792  
((\$792 base rate + \$0 indexation)  
S94 Plan No. 11

(d) Bus Shelters:

1 ET @ \$60 per ET \$60  
((\$60 base rate + \$0 indexation)  
S94 Plan No. 12

(e) Eviron Cemetery:

1 ET @ \$120 per ET \$120  
((\$101 base rate + \$19 indexation)  
S94 Plan No. 13

(f) Community Facilities (Tweed Coast – North)



|     |  |           |
|-----|--|-----------|
|     | 1 ET @ \$581 per ET  | \$581     |
|     | (\$581 base rate + \$0 indexation)   |           |
|     | S94 Plan No. 15  |           |
| (g) | Extensions to Council Administration Offices<br>& Technical Support Facilities |           |
|     | 1 ET @ \$1759.9 per ET   | \$1759.90 |
|     | (\$1759.9 base rate + \$0 indexation)  |           |
|     | S94 Plan No. 18  |           |
| (h) | Cycleways:   |           |
|     | 1 ET @ \$447 per ET  | \$447     |
|     | (\$447 base rate + \$0 indexation)   |           |
|     | S94 Plan No. 22  |           |
| (i) | Regional Open Space (Casual)   |           |
|     | 1 ET @ \$1031 per ET   | \$1031    |
|     | (\$1031 base rate + \$0 indexation)  |           |
|     | S94 Plan No. 26  |           |
| (j) | Regional Open Space (Structured):  |           |
|     | 1 ET @ \$3619 per ET   | \$3619    |
|     | (\$3619 base rate + \$0 indexation)  |           |
|     | S94 Plan No. 26  |           |

[PSC0175]

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

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

[PSC0215]

12. 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]

13. 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]

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

[PSC0825]

- 15. 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) Construction of the future dwelling on Lot 1 is to incorporate appropriate noise attenuation measures to reduce potential traffic noise impact from Cudgen Road. Any future dwelling must also be designed to reduce potential land use conflict from adjoining agricultural uses (ie. orientation of living spaces etc).

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0835]

- 16. 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]

- 17. 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]

- 18. Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.

- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0885]

19. 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 – Water Reticulation  
(b) Compliance Certificate - Sewerage Reticulation

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]

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

[PSC0925]

21. 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]

22. 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 proposed Lot 1 has been completed.

[PSC1165]

23. 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 proposed Lot 1.

[PSC1185]

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

- Construction of a new driveway access for proposed Lot 1 in accordance with Council's "Driveway Access to Property – Part 1 – Design Specification".
- Construction of kerb and guttering and associated shoulder bitumen sealing along the full frontage of proposed Lot 1.

Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the works and its reconstruction.

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

[PSCNS01]

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] 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**

**66**

**Cr D Holdom**  
**Cr P Youngblutt**

**PROPOSED** that 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 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 S8479F, Sheets G1 – G4 prepared by Daly International dated 06/04/2009, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

3. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.  
[GEN0135]
4. Access to the site shall be upgraded to provide a bitumen seal from edge of the existing road carriageway of meadow Place to the property boundary.  
[GENNS01]
5. Erosion and Sediment Control shall be provided and maintained in accordance *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".  
[GENNS01]
6. The access track from the property boundary at Meadow Place to the Optus Compound shall be upgraded to provide a driveway of minimum standard to allow a 2 wheel drive vehicle access to the compound under all weather conditions.  
[GENNS01]
7. A Right of Carriageway shall be created over the existing property access road servicing the proposed Optus compound.  
[GENNS01]
8. An easement for electricity supply (minimum 2m wide) shall be created (as required) over the electricity infrastructure within Lot 17 DP 778719 servicing the proposed Optus compound.  
[GENNS01]
9. The monopole is to be painted mist green to blend with it's surrounds.  
[GENNS02]
10. At the commencement of building works and in perpetuity the leased area 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'.  
[GENNS03]

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

11. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.  
[PCC0285]
12. Detailed design drawings for the proposed access road to the monopole site must be submitted for approval by Director Planning and Regulation. The location of native vegetation species must be indicated and named on the plans and measures to avoid or ameliorate impacts indicated. In particular, avoidance of the average 2m wide root plate for larger Brushbox (*Lophostemon confertus*) trees and avoidance of damage to the Strangler Fig (*Ficus watkinsiana*) roots must be demonstrated.  
[PCCNS01]

13. A vegetation management plan must be submitted for approval by Director Planning and Regulation detailing compensatory works as an offset for loss of native species. Such works must include planting of a minimum of 40 native species and Camphor Laurel and other weed species control within a defined area no less than 1 hectare in area.

[PCCNS02]

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

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

[PCW0215]

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

[PCW0225]

16. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

17. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority. In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

This sign is to remain in position for the duration of the project.

[PCW0985]

## **DURING CONSTRUCTION**

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

[DUR0005]

19. Construction and/or demolition site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -  
Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

20. 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]

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. 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]

23. 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]

24. 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.

Any damage to property (including pavement damage) is to be rectified by the Developer to the satisfaction of the General Manager.

[DURNS01]

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

25. 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]

26. On completion of work a certificate signed by a practising structural engineer is to be submitted to the Principal Certifying Authority to certify the structural adequacy of the structure.

[POC0805]

### **USE**

27. 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]

28. 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]

29. 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]

30. All hazardous and/or dangerous goods shall be stored in accordance with requirements of WorkCover NSW.

[USE1035]

31. Works must be completed by qualified bush regenerators in accordance with the approved vegetation management plan.

[USENS01]

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### **AMENDMENT**

**Cr K Skinner**  
**Cr J van Lieshout**

**RESOLVED** that:



1. This matter be referred back to Optus to request public consultation within the next month.
2. Optus seek a suitable site for telecommunication with full community co-operation.
3. This matter be further considered at Council's meeting to be held in April.

The Amendment 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**

The Amendment on becoming the Motion was **Carried** - (Minute No 67 refers)

**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**

13 [PR-CM] Development Application DA09/0504 for a Fruit and Vegetable Shop at Lot 1 DP 240847, Bilambil Road, Bilambil

68

Cr K Skinner  
Cr P Youngblutt

**RESOLVED** that: -

- A. Development Application DA09/0504 for a fruit and vegetable shop at Lot 1 DP 240847, Bilambil Road, Bilambil be approved subject to deferred commencement conditions:-

**"DEFERRED COMMENCEMENT"**

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

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 67 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

**"SCHEDULE "A"**

**Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 67 of the Regulations as amended.**

- A. The applicant shall provide to Council an on-site sewage management capability assessment report for the existing on-site sewage management system. The report shall incorporate the total potential and actual hydraulic wastewater loading to the existing OSMS and shall provide an assessment

of the capability of the existing system (including the effluent disposal area) in accordance with the provisions of AS/NZS 1547/2000 and NSW Environment and Health Protection Guidelines "on-Site Sewage Management for Single Households" 1998 to adequately and sustainably manage the potential and actual wastewater load.

The report shall indicate if the system is able to meet the minimum requirements of the assessment standards or if the system will require upgrading.

- B. Operation of the fruit and vegetable shop is contingent upon written landowner's consent for the proprietor and staff to use WC facilities located in association with the General Store. Such written landowner's consent is to be provided to Council and approved by the General Manager or his delegate.

Should this not occur, the applicant is to demonstrate that a separate WC can be provided in association with the fruit and vegetable shop. This should be demonstrated in the on-site sewer management report.

### **SCHEDULE "B"**

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

#### **GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and  
Plan No 2 (Sheet 2 of 2), as amended in red, prepared by Chris J Cohen and dated 6 July 2009.  
Plan No 1 (Sheet 1 of 2), as amended in red, prepared by Chris J Cohen and dated 30 September, 2009.  
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. Disabled access is to be provided in accordance with the Building Code of Australia.  
[GENNS01]

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

4. 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:

2.2841 Trips @ \$1829 per Trips \$4178

(\$1662 base rate + \$167 indexation)

S94 Plan No. 4

Sector4\_4

[PCC0215]

5. Design detail shall be provided to address the flood compatibility of the proposed structure including the following specific matters:

(a) Design flood level of RL 3.5m AHD.

(b) All building materials used below Council's design flood level must not be susceptible to water damage.

(c) Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level should to suitably treated to withstand continuous submergence in water and provide appropriate earth leakage devices.

(d) Define adequate provision for the flood free storage for goods and equipment susceptible to water damage.

[PCC0705]

6. 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]

7. Prior to the issue of a construction certificate, a car parking plan shall be submitted to the satisfaction of the General Manager or delegate that:

(a) provides one car parking space for use in association with the fruit and vegetable shop.

NB: The total number of car parking required on site is six (6) should the development consent for DA08/0897 be activated. This is indicated on the approved plan for that development application.

[PCCNS02]

8. An external colour schedule is to be submitted prior to issue of a Construction Certificate to the satisfaction of the General Manager or delegate.

[PCCNS03]

9. WC facilities shall be provided in accordance with Schedule A.

[PCCNS04]

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

10. 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]

11. 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]

12. 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]

13. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

14. Prior to the commencement of work on the stormwater system a site inspection is to be arranged with the Principal Certifying Authority to discuss site drainage.

[PCW0995]

15. Any alteration to the existing on-site sewage management facilities must be approved to the satisfaction of the General Manager or his delegate.

[PCW1125]

## **DURING CONSTRUCTION**

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

[DUR0005]

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

- (a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
- (b) The chute shall be located in a position approved by the Principal Certifying Authority.
- (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.

[DUR0385]

21. 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]

22. 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]

23. 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]

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

[DUR0445]

25. A survey certificate from a Registered Surveyor is to be submitted to the Principal Certifying Authority at slab or footing stage, prior to pouring concrete, to confirm that the building has been sited in accordance with the approved development consent plans.

[DUR0475]

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

[DUR1505]

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

[DUR1545]

28. All shelving, benches, fittings and furniture on which appliances and utensils are positioned within the premises must be of durable, smooth, impervious material capable of being easily cleaned.  
[DUR1605]
29. The walls immediately behind any basin shall be provided with an impervious splashback to a height of 450mm and at least 150mm either side of the basin.  
[DUR1625]
30. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428. It is to be noted that an access ramp in accordance with AS 1428.1 will need to be constructed to enable persons to access the shop.  
[DUR1685]
31. 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]
32. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed.  
[DUR2245]
33. All stormwater from roofed and paved areas are to be connected directly into road drainage pits where available, kerb and gutter drainage canal or inter allotment drainage line where provided.  
All drainage systems shall comply with AS 3500.  
[DUR2305]
34. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
  - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - (c) external drainage prior to backfilling.
  - (d) completion of work and prior to occupation of the building.
- [DUR2485]
35. Plumbing
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
  - (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
- [DUR2495]
36. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.  
[DUR2515]

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

[DUR2545]

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

- \* 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- \* 50°C in all other classes of buildings.

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

[DUR2555]

39. Prior to the issue of a construction certificate the applicant shall provide to Council an on-site sewage management capability assessment report for the existing on-site sewage management system. The report shall incorporate the total potential and actual hydraulic wastewater loading to the existing OSMS and shall provide an assessment of the capability of the existing system (including the effluent disposal area) in accordance with the provisions of AS/NZS 1547/2000 and NSW Environment and Health Protection Guidelines "on-Site Sewage Management for Single Households" 1998 to adequately and sustainably manage the potential and actual wastewater load. The report shall indicate if the system is able to meet the minimum requirements of the assessment standards or if the system will require upgrading.

[DURNS01]

40. A roof catchment water supply source shall be provided for use in the premises where a Council reticulated supply is unavailable and fitted with a first flush device. Installation, water collection and tank maintenance of rainwater or foreign water brought in for drinking purposes or in conjunction with the conduct and operation of the business must comply with NSW Health requirements.

41. Should the on-site sewage management capability assessment report identify that the OSMS is to be upgraded the applicant shall, prior to the issue of a construction certificate, lodge an application to install/operate an onsite sewerage management system under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with an approval.

[DURNS03]

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

42. 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]

43. 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]

44. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval.

[POC0615]

45. The proprietor of the food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations by completing the "Notify a Food Business" form under the NAFSIS Heading on the following website [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au) or alternatively by contacting the NSW Food Authority on 1300650124.

[POC0625]

46. The premise is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request.

[POC0635]

47. Prior to the occupation of any building and prior to the issue of any occupation certificate a final inspection report is to be obtained from Council to verify the satisfactory installation of all plumbing and drainage and the on-site sewage management facility.

[POC1035]

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

[POC1055]

49. Any agreement between the owner and applicant allowing use of the WC facilities located in association with the General Store shall be included as an 88b instrument on the survey plan prior to the issue of a final occupation certificate.

[POCNS01]

## USE

50. 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]

51. 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]

52. Hours of operation of the business are restricted to the following hours: -

- \* 9.00am to 6.30pm - Mondays to Fridays
- \* 9.00am to 4.00pm - Saturdays
- \* 9.00am to 3.00pm Sundays
- \* No operations are to be carried out on Public Holidays
- \* All deliveries and pickups relating to the business are to occur within the approved hours

[USE0185]

53. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act* 2003, FSANZ Food Safety Standards and AS 4674-2004 Design, construction and Fit-out of Food Premises and other requirements of Councils Environmental health Officer included in this approval.

[USE0835]

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

[USE0875]

55. The premises shall be maintained in a clean and tidy manner.

[USE0965]

56. The maximum number of staff at any one time shall be one (1) unless otherwise approved by the General Manager or delegate.

[USENS01]

57. All produce waste shall be removed from the site daily in accordance with point 4.11 of the Statement of Environmental Effects unless otherwise approved by the General Manager or delegate.

[USENS02]

- B. The owner of the site provides further evidence to demonstrate that the extension to the shop into the garage has been carried out lawfully.
- C. The report required in Part A (of Schedule A) and the owner's consent required in Part B (of Schedule A) are to form a report back to the full Council when received by Council staff.

**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**

**14 [PR-CM] Unauthorised Fence Lot 156 DP 628026 Creek Street, Hastings Point**

## **DECLARATION OF INTEREST**

**Cr P Youngblutt** declared an Interest in this item, left the Chamber at 05:42 PM and took no part in the discussion or voting on this matter. The nature of the interest is that Cr P Youngblutt's brother is the caretaker of the subject property.

Cr D Holdom  
Cr K Skinner

**RESOLVED** that Council engages its solicitors to commence appropriate proceedings to have any unlawful internal fencing on Lot 156 DP 628026, Creek Street, Hastings Point removed if a development application is not submitted by 1 March 2010.

The Motion was **Carried**

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

Cr P Youngblutt has returned from temporary absence at 05:51 PM

**15 [PR-CM] Proposed Amendments to Tweed DCP Notification Requirements for DAs Affecting Caravan Parks and Manufactured Home Estates**

**SUSPENSION OF STANDING ORDERS**

**70**

Cr D Holdom  
Cr K Milne

**RESOLVED** that Standing Orders be suspended to discuss Item 15 of the Agenda.

**FOR VOTE - Unanimous**

**RESUMPTION OF STANDING ORDERS**

**71**

Cr D Holdom  
Cr P Youngblutt

**RESOLVED** that Standing Orders be resumed.

**FOR VOTE - Unanimous**

**72**

Cr K Milne  
Cr J van Lieshout

**RESOLVED** that this matter be dealt with as a Workshop.

The Motion was **Carried** (Minute No 72 refers).

**FOR VOTE - Unanimous**

**16 [PR-CM] Works Undertaken Without Approval - Lot 25 DP 870463 No. 19 Waterlily Close, Nunderi**

**73**

**Cr D Holdom  
Cr K Skinner**

**RESOLVED** that: -

1. No further action be undertaken (other than recommendations 2 and 3) in relation to the issues discussed in this report.
2. The owners of Lot 25 DP 870463 be advised in writing not to undertake any further works without approvals or consents in place where required.
3. A copy of this report be sent to the adjacent landowners.
4. ATTACHMENTS 1 to 4 are CONFIDENTIAL in accordance with Section 10A(2)(a) as it contains personnel matters concerning particular individuals (other than councillors).

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***

**17 [PR-CM] Development Codes for Cobaki Lakes Concept Plan and Kings Forest Concept Plan– Residential Community Development - Council Submission to the Department of Planning**

**74**

**Cr D Holdom  
Cr K Skinner**

**PROPOSED** that: -

1. Council endorses the forwarding of a draft submission to the Department of Planning on the Development Codes for Cobaki Lakes and Kings Forest, as attached to this report.
2. The General Manager writes to the Department of Planning and request an extension of time for lodgement of a submission on the current project application for the central lakes at Cobaki Lakes, until 17 March 2010
3. ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains advice concerning litigation, or

advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

4. Council writes to the Minister of Planning NSW requesting that, before any approvals are given, the Department be requested to conduct further consultation to familiarise Tweed residents with the new housing types as proposed.

75

## AMENDMENT

Cr K Milne

Cr B Longland

**RESOLVED** that: -

1. Council:-
  1. Endorses the forwarding of a draft submission to the Department of Planning on the Development Codes for Cobaki Lakes and Kings Forest, as attached to this report.
  2. Requests the State government require an independent review of the proposals for Cobaki Lakes and Kings Forest developments in regard to outcomes for
    - a) sustainability,
    - b) urban design,
    - c) employment,
    - d) social planning (especially for youth and ageing populations),
    - e) Indigenous cultural heritage,
    - f) open space,
    - g) environment,
    - h) water and sewerage outcomes,
    - i) or any other relevant issues,

and recommendations to enhance these outcomes.

This review to be undertaken by an appropriate organisation, such as the Institute of Sustainable Futures, University of Technology Sydney.

2. The General Manager writes to the Department of Planning and request an extension of time for lodgement of a submission on the current project application for the central lakes at Cobaki Lakes, until 17 March 2010
3. ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

4. Council writes to the Minister of Planning NSW requesting that, before any approvals are given, the Department be requested to conduct further consultation to familiarise Tweed residents with the new housing types as proposed.
5. Council provides a report to the next Council meeting:
  - a) Detailing the amounts and totals collectable from the Developer contributions plans applicable to these developments, and
  - b) The ability of Council to meet current and projected costs associated at the various stages of these new developments, including but not limited to infrastructure costs, community facilities and bushland restoration.
6. This report to include the various methods of addressing any gaps or shortfalls envisaged in the planning of these developments such as through enhancing the s94 developer contributions or establishing Voluntary Planning agreements for Cobaki Lakes and Kings Forest Greenfield sites to address these issues.
7. Council writes to the NSW Department of Planning to request special consideration due to review these issues.

The Amendment was **Carried**

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

The Amendment on becoming the Motion was **Carried** - (Minute No 75 refers)

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

|  |
|--|
| <b>A RESCISSION MOTION HAS BEEN RECEIVED IN RELATION TO THIS MATTER.</b> |
|--|

**18 [PR-CM] Development Application DA06/1035.05 for an Amendment to Development Consent DA06/1035 for a Self Storage Facility at Lot 2 DP 863736, No. 942 Cudgera Creek Road, Cudgera Creek**

**76**

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

**RESOLVED** that Development Application DA06/1035.05 for an amendment to Development Consent DA06/1035 for a self storage facility at Lot 2 DP 863736, No. 942 Cudgera Creek Road, Cudgera Creek be refused due to the proposed development being inconsistent with:

- the Far North Coast Regional Strategy 2006,
- the Tweed Urban and Employment Land Release Strategy 2009,
- Council's resolution in 2006 to rezone the land identified under the Far North Coast Regional Strategy 2006; and

- the Draft Local Environmental Plan 2010

The Motion was **Lost**

**FOR VOTE - Cr D Holdom, Cr B Longland**

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

77

**Cr K Skinner**

**Cr J van Lieshout**

**RESOLVED** that Council agrees to an application to modify development consent for Development Application DA06/1035.05 for a self storage facility at Lot 2 DP 863736, No 942 Cudgera Creek Road, Cudgera Creek by:-

1. Deleting Condition 8 -

*"The storage sheds are to be dismantled and removed within two (2) years of the gazettal of any industrial zoned land within a five (5) kilometre radius of the subject site. At that time, this consent is to be surrendered in accordance with Sections 80A 1(b) and 6 of the Environmental Planning and Assessment Act 1979 (as amended)."*

on the planning grounds that such a Development Application is permissible in that zoning with approval; and

2. Granting approval on the following reasonable grounds:-

- (a) Too onerous and unsustainable to order moving such a well constructed development;
- (b) Construction complies with all council requirements and is 98% occupied; and
- (c) Site is near proposed future industrial site and proponents of that site have no objection to the sheds.

The Motion was **Carried** - (Minute No 77 refers)

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

**AGAINST VOTE - Cr D Holdom, Cr B Longland**

19 [PR-CM] Development Application DA08/0909 for a Monopole (Telecommunications Facility) at Lot 956 DP 864092, Cudgera Avenue, Pottsville

78

**Cr D Holdom**

**Cr B Longland**

**RESOLVED** that Development Application DA08/0909 for a monopole (telecommunications facility) at Lot 956 DP 864092, Cudgera Avenue, Pottsville be refused for the following reasons: -

1. The proposal does not meet the aims of the Tweed Local Environmental Plan 2000 (TLEP) to enhance ecological integrity, as required by clause 4.
2. The proposal is inconsistent with clause 5 of the TLEP, which seeks to ensure ecologically sustainable development.
3. The proposal does not comply with clause 28 of the TLEP, relating to development on land adjacent to Zone 7(l) Environmental Protection Habitat.
4. The proposal is considered to be contrary to the aims and objectives of Council's DCP Section B10-Koala Beach.
5. The proposed development is not considered to meet the requirements of 79C of the Environment, Planning and Assessment Act as it is likely to result in unacceptable environmental impact and the site is considered unsuitable.
6. The proposed development is not considered to be in the public interest.
7. The proposed development is contrary to the Draft Tweed Local Environmental Plan 2010.
8. The proposal is inconsistent with the NSW Coastal Policy and does not meet clause 92 of the Environment and Planning Regulations.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**ADJOURNMENT OF MEETING**

Adjournment for dinner at 6.52 pm.

**RESUMPTION OF MEETING**

The Meeting resumed at 7.55pm

**WELCOME TO MEETING**

The Mayor Cr W Polglase welcomed Mr Roger Patching, Associate Professor - Journalism, and journalism students from Bond University to the meeting.



20 [PR-CM] Development Application DA09/0814 for Dwelling Additions at Lot 1 DP 781535, No. 10 Dobbys Crescent, Terranora

79

Cr D Holdom  
Cr P Youngblutt

**RESOLVED** that: -

- A. Council assumes the concurrence of the Director-General of the Department of Planning for the approval of the SEPP 1 objection to vary the thirty metre building setback requirement.
- B. Development Application DA09/0814 for alterations and additions to the existing dwelling house at Lot 1 DP 781535, No. 10 Dobbys Crescent, Terranora 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 LSO155 sheet numbers 1A, 2B, 3A, 4A, 5A, 6A, 7A & 9A prepared by Luke Stephens Building Design and dated Nov. 09, except where varied by the conditions of this consent.  
[GEN0005]
- 2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.  
[GEN0115]
- 3. Approval is given subject to the location of, protection of and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property.  
[GEN0135]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

- 4. The footings are to be designed by a practising Structural Engineer and details 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**

- 5. 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]

- 6. 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]

- 7. 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]

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

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

[DUR0005]
11. 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]
12. 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]
13. 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]
14. 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]
15. 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]
16. 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]
17. 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]
18. 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]
19. 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]
20. 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]
21. 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**

22. Prior to the issue of an occupation certificate for the dwelling additions smoke alarms shall be installed in the existing dwelling in accordance with Part 3.7.2 of the Building Code of Australia. A certificate from a licensed electrician certifying that the smoke alarms have been connected to the consumer mains power is to be submitted to Principal Certifying Authority and Tweed Shire Council. [POCNS01]

The Motion was **Carried**

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**FOR VOTE - Unanimous**

**21 [PR-CM] Planning Reform Unit Work Program - Mixed Redevelopment Proposal - "Innovation at Wardrop"**

**80**

**Cr D Holdom  
Cr B Longland**

**RESOLVED** that Council resolves not to advance any further planning assessment of the planning concept submitted by Darryl Anderson Consulting Pty Ltd (on behalf of property owners J and L Dickinson and D and M Anthony) for a 475 hectare multi-functional mixed-use development on land eastward of the Murwillumbah township, generally extending south of the existing Wardrop Valley industrial trade park ("Tweed Central"), bounded by Wardrop Valley Road and Tweed Valley Way, and referred to as "Innovation at Wardrop", as identified in this report, on the grounds that the timing of the proposal is not consistent with the long-term strategic planning for the Tweed and that any such proposal will be considered at the next review of the Tweed Urban and Employment Land Strategy 2009.

The Motion was **Carried**

**FOR VOTE - Voting - Unanimous**

**22 [PR-CM] Planning Reform Unit Work Program - Strategic Planning Fees**

**81**

**Cr K Skinner  
Cr D Holdom**

**RESOLVED** that Council adopts the following fees and charges schedule relating to requests to review strategic planning policies:

**Fees and Charges**

| <b>Request for review of strategic planning policy outside of review period</b> |   |
|---|---|
| <b>Item</b>   | <b>Fees &amp; Charges</b>   |
| General administration fee  | \$500   |
| Review process fee  | \$500 + \$95 per hour per reviewer beyond 4hrs<br>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- |

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|  | sold copies remaining |
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The Motion was **Carried**

***FOR VOTE - Unanimous***



