



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 17 August 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).

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

9 [PR-CM] Planning Proposal PP10/0004 Enterprise Avenue/Greenway Drive, Tweed Heads South

1

**Cr D Holdom
Cr B Longland**

RESOLVED that:

1. Planning Proposal PP10/0004 for Lots 2 and 3 of DP 1077990, Enterprise Avenue, and Lot 2145 DP 879149, Greenway Drive, Tweed Heads South not be referred to the Department of Planning for a gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* based on the uncertainty of the adequate provision for roads and traffic and financial implications for ongoing operations of the Banora Point Waste Water Treatment Plant.
2. The proponent be advised that additional investigation is required and will need to include pre application consultation with all relevant agencies and is to include additional information relating but not limited to:
 - i. An assessment of potential impacts arising as between the Banora Point Waste Water Treatment Plant (WWTP) and the proposed future development, any mitigation measures as required, and cost estimates / allocation or apportionment of any cost arising on the WWTP as a result of the proposed development.
 - ii. A roads and traffic needs assessment arising from the proposed development including estimates of the current future road funding under

the Council's TRCP, identification of new roads or upgrading required to support the future development along with projected timeframes for construction and cost. The Applicant must clearly identify their contribution either by way of funding, contribution estimates, works in kind or any other means.

- iii. An assessment of the ecological constraints (including the traversing of SEPP14 Wetlands) of the footprint of the proposed extension of Enterprise Ave and how these constraints may be addressed to permit the road to proceed.
3. The Applicant be advised that any costs to Council associated with any additional investigation or assessment of Stage 1 of Planning Proposal PP10/0004 be in accordance with the draft Fees and Charges adopted for exhibition at the Council meeting of 20 July 2010.

The Motion was **Carried**

FOR VOTE - Unanimous

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

2

**Cr D Holdom
Cr B Longland**

PROPOSED that Council in respect of the rezoning application for the Pottsville Employment Lands site:

1. Endorses the boundary redefinition of the land subject to the rezoning as identified in Figure 1: Option 1 – Preferred option; to this report, being that land bordered with a blue dashed line;
2. 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. 3 below;
3. Endorses that 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);
4. Endorses that land identified as unsuitable for rezoning for urban purposes be rezoned to reflect the environmental qualities and constraints of the land; and
5. Endorses that the Applicant be advised of Council's concern over the proposed method of waste water treatment proposed and the need for the Applicant to demonstrate certainty of all aspects of the scheme to Council's satisfaction.

3

AMENDMENT

**Cr J van Lieshout
Cr K Skinner**

RESOLVED that Council in respect of the rezoning application for the Pottsville Employment Lands site:

1. Endorses the boundary redefinition of the land subject to the rezoning as identified in Figure 5: Option 5 – Revised development footprint and excluded land as proposed by the Proponent; to this report;
2. 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. 3 below;
3. Endorses that 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);
4. Endorses that land identified as unsuitable for rezoning for urban purposes be rezoned to reflect the environmental qualities and constraints of the land; and
5. Endorses that the Applicant be advised of Council's concern over the proposed method of waste water treatment proposed and the need for the Applicant to demonstrate certainty of all aspects of the scheme to Council's satisfaction.

The Amendment 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**

The Amendment on becoming the Motion was **Carried** - (Minute No 546 refers)

**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**

11 **[PR-CM] Development Application DA07/0945 for Multi Dwelling Housing Consisting of 25 Residential Units at Lot 290, 630 DP 755740; Lot 1 DP 781512, No. 7 Elsie Street, Banora Point**

4

Cr D Holdom

Cr P Youngblutt

RESOLVED that Development Application DA07/0945 for multi dwelling housing consisting of 25 residential units at Lot 290, 630 DP 755740; Lot 1 DP 781512, No. 7 Elsie Street Banora Point be approved subject to the following conditions: -

"DEFERRED COMMENCEMENT"

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

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 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. Demonstrate to the satisfaction of the General Manager or delegate in plan and report format that the proposed development and all associated infrastructure and buffer requirements will not cause adverse an impact on the remnant Endangered Ecological Community (EEC) "Lowland Rainforest on Floodplain on the NSW North Coast bioregion" that reduce the long-term viability of that remnant or lead to deleterious impacts on other EEC's downslope on adjoining properties.

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 the following Plans;
 - Drawing No. SW001 Issue A; and
 - Drawing No. G001 Issue Gprepared by Knobel Consulting Pty Ltd and dated 05-08-09 and 12-02-10 respectively, except where varied by the conditions of this consent; and
 - Drawing No. 2881 DA 02K dated 11/02/10;
 - Drawing No. 2881 DA 06J dated 06/10/09;
 - Drawing No. 2881 DAA.01 J dated 17/02/10;
 - Drawing No. 2881 DAA.02 J dated 17/02/10;
 - Drawing No. 2881 DAA.03 J dated 17/02/10;
 - Drawing No. 2881 DAA.04 J dated 17/02/10;
 - Drawing No. 2881 DAA.05 J dated 17/02/10;
 - Drawing No. 2881 DAA.06 J dated 17/02/10;
 - Drawing No. 2881 DAA.07 J dated 17/02/10;
 - Drawing No. 2881 DAB.01 H dated 19/08/09;
 - Drawing No. 2881 DAB.02 H dated 19/08/09;
 - Drawing No. 2881 DAB.03 H dated 19/08/09;
 - Drawing No. 2881 DAB.04 H dated 19/08/09;
 - Drawing No. 2881 DAB.05 H dated 19/08/09;

- Drawing No. 2881 DAB.06 H dated 19/08/09;
- Drawing No. 2881 DAB.07 H dated 19/08/09;
- Drawing No. 2881 DAB.08 H dated 19/08/09;
- Drawing No. 2881 DAB.09 H dated 19/08/09;
- Drawing No. 2881 DAB.10 H dated 19/08/09;
- Drawing No. 2881 DAB.11 H dated 19/08/09;
- Drawing No. 2881 DAB.12 H dated 19/08/09;
- Drawing No. 2881 DAC.01 K dated 06/10/09;
- Drawing No. 2881 DAC.02 L dated 17/02/10;
- Drawing No. 2881 DAC.03 K dated 06/10/09;
- Drawing No. 2881 DAC.04 K dated 06/10/09;
- Drawing No. 2881 DAC.05 K dated 06/10/09;
- Drawing No. 2881 DAC.06 K dated 06/10/09;
- Drawing No. 2881 DAC.07 K dated 06/10/09; and
- Drawing No. 2881 DAC.08 K dated 06/10/09.

prepared by Alex Enborisoff Architect, except where varied by the conditions of this consent.

- [GEN0005]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
- [GEN0115]
3. Approval is given subject to the location of, protection of, and/or any necessary, approved modifications to any existing public utilities situated within or adjacent to the subject property.
- [GEN0135]
4. Sewer manholes are present on this site. These manholes are not to be covered with soil or other material.
Should adjustments be required to the sewer manholes, then application shall be made to Council's Community and Natural Resources Division for approval of such works.
- [GEN0155]
5. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.
- [GEN0265]
6. Stormwater management shall be in general accordance with the Stormwater Report prepared by Knobel Consulting Pty Ltd, dated 14 October 2009, except where varied by the conditions of this consent.
The large stormwater inlet pit capturing runoff from Elsie Street (between Lot 576 DP755740 and Lot 577 DP755740) as shown on Drawing No. SW001 Issue A, dated 05-08-09, prepared by Knobel Consulting Pty Ltd shall be contained entirely within the subject site.
The Developer is responsible for all costs associated with this inlet and the associated drainage network, with the owner of the development inheriting all liability and maintenance responsibility for the structure.
- [GENNS02]
7. Management of the large stormwater inlet capturing runoff from Elsie Street (between Lot 576 DP755740 and Lot 577 DP755740) and associated drainage must be included within the Body Corporate Management Plan, advising owners of their maintenance responsibilities.
The plan must also clearly advise that Council hold no liability and maintenance responsibility for the inlet structure or the associated drainage infrastructure.

[GENNS03]

8. Proposed Block C may be constructed over Council's existing sewer main, provided;
- An easement (clear of any structures except where the building proper straddles the sewer main) is provided centrally over the main. The easement width at any one point shall be at least twice the depth to the main to the finished surface level of the under-croft car park, plus the diameter of the main, with a minimum width of 3.5m.
 - Any proposed piers or foundations are located clear of the easement and outside the zone of influence of the sewer main.
 - A vertical clearance of no less than 3.5m is provided at any location.
 - The under-croft car park is an open structure.
 - Adequate access (providing a minimal height clearance of 2.4m) must be available to access the easement at all times.
 - The finished surface of the under-croft car park shall be Asphaltic Concrete (AC), unless approved otherwise by Council.

[GENNS04]

9. Stormwater management through the development must incorporate the following;
- Any overtopping of the inlet chamber (as shown on Drawing No. SW001 Issue A, dated 05-08-09, prepared by Knobel Consulting Pty Ltd) must be in managed such that stormwater does not bypass around the structure and cascade over the retaining wall in an uncontrolled manner.
 - An overland flow path sized to convey 50% of the peak Q100 flow shall be provided to convey overtopping flows safely through the site. The profile of the overland flow path must provide a minimum freeboard of 300mm to the finished floor level of any building within the development.
 - Suitable access for maintenance must be provided to the structure at all times
 - Permanent level spreaders and energy dissipaters are required downstream of all discharge headwalls to ensure that stormwater discharging onto downstream property has no adverse impacts and is dispersed as sheet flow over the maximum possible width.
 - All weather access for maintenance is to be provided to all of these structures.

[GENNS05]

10. The landscaped, and any compensatory habitat, areas are to be maintained in accordance with the *Planning for Bushfire Protection Guidelines* and the *Standards for Asset Protection Zones* and the *Vegetation and Fuel Management Guidelines* in the approved Environmental Restoration Plan (ERP).

[GENNS05]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

11. The developer shall provide the following parking facilities including parking for the disabled (as required) in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.
- A minimum of 8, 18 & 21 residence car parking spaces for Housing Block A, B and C respectively,
 - A minimum of 2, 3 & 4 designated visitor car spaces with unrestricted access for Housing Block A, B and C respectively,
 - A minimum of 3 designated, durable and pervious car wash bays
 - Parking for a minimum of 50 bicycles for the entire development.

Full design detail of the proposed parking and maneuvering areas shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.

[PCC0065]

12. 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. Banora Point West/Tweed Heads South (DCP Section B3)
Open Space Passive (Casual):
16.8746 ET @ \$2184 per ET \$36854.00
((\$2184 base rate + \$0 indexation)
S94 Plan No. 1
- b. Banora Point West/Tweed Heads South (DCP Section B3)
Open Space Passive (Casual):
16.8746 ET @ \$537 per ET \$9062.00
((\$537 base rate + \$0 indexation)
S94 Plan No. 1
- c. Tweed Road Contribution Plan:
78 Trips @ \$936 per Trips \$73008.00
((\$851 base rate + \$85 indexation)
S94 Plan No. 4
Sector2_4
- d. Shirewide Library Facilities:
16.8746 ET @ \$792 per ET \$13365.00
((\$792 base rate + \$0 indexation)
S94 Plan No. 11

- e. Bus Shelters:
 - 16.8746 ET @ \$60 per ET \$1012.00
 - (\$60 base rate + \$0 indexation)
 - S94 Plan No. 12
- f. Eviron Cemetery:
 - 16.8746 ET @ \$120 per ET \$2025.00
 - (\$101 base rate + \$19 indexation)
 - S94 Plan No. 13
- g. Extensions to Council Administration Offices
& Technical Support Facilities
 - 16.8746 ET @ \$1759.9 per ET \$29697.61
 - (\$1759.9 base rate + \$0 indexation)
 - S94 Plan No. 18
- h. Cycleways:
 - 16.8746 ET @ \$447 per ET \$7543.00
 - (\$447 base rate + \$0 indexation)
 - S94 Plan No. 22
- i. Regional Open Space (Casual)
 - 16.8746 ET @ \$1031 per ET \$17398.00
 - (\$1031 base rate + \$0 indexation)
 - S94 Plan No. 26
- j. Regional Open Space (Structured):
 - 16.8746 ET @ \$3619 per ET \$61069.00
 - (\$3619 base rate + \$0 indexation)
 - S94 Plan No. 26

[PCC0215/PSC0175]

13. 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:	14.4 ET @ \$11020 per ET	\$158688
Sewer Banora:	19 ET @ \$5295 per ET	\$100605

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]
14. 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 Occupation Certificate is issued.

- [PCC0275]
15. 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 installments, the first installment 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]
16. 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]
17. The construction of any retaining wall or cut/fill batter must at no time result in additional runoff or ponding occurring within neighbouring properties.

Cut and fill controls shall be in accordance with Council's DCP Section A1 – Residential and Tourist Development Code - Part C - Residential Flat Buildings And Shop-Top Housing which limits;

- Cut areas to be set back from the boundaries at least 900mm;
- Fill areas are to be setback from the boundary a minimum of 1.5m.
- Excavations in excess of one metre within the confines of the building and on driveways may be permitted, to allow for basement garages providing the excavations are adequately retained and drained, in accordance with engineering details.

Catch drains shall be provided on the top side of all retaining walls in accordance with Council's Development Design Specification D6 – Site Regrading.

Safety fencing and guard rail shall be provided, where required.

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

[PCC0485]

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) Provision of a concrete vehicular access in accordance with Section A2 – "Site Access and Parking Code" of Council's consolidated Tweed Development Control Plan and Council's "Driveway Access to Property – Part 1" Design Specification June 2004.
- (b) Elsie Street shall be resealed for it's full width from the development access to the Laura Street intersection.
- (c) Drainage works within the unnamed road reserve between Lot 576 DP755740 and Lot 577 DP755740.

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

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

[PCC0895]

20. 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]

21. Stormwater
- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying

Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.

- (b) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
 - (c) The infiltration rate for sizing infiltration devices shall be 3m per day:
 - * As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
 - (d) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
 - (e) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
 - (f) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
 - (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
 - (h) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
 - (i) All infiltration devices are to be designed to allow for construction and operation vehicular loading.
 - (j) All infiltration devices are to be located clear of stormwater or sewer easements.
- [PCC1135]
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. The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be 200

l/s/ha. This can be achieved by On site stormwater detention (OSD) utilising above and or below ground storage. OSD devices including discharge control pits (DCP) are to comply with standards in the current version of The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook" except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire.

All stormwater must initially be directed to the DCP. Details are to be submitted with the S68 stormwater application.

[PCC1165]

24. Medium density/integrated developments will be required to provide a single bulk water service at the road frontage. Individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

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

[PCC1185]

25. Prior to the issue of a Construction Certificate, applications 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 of the following works including (but not limited to);

- a. water,
 - Disconnection of any existing water meters and provision of a Bulk meter. The meter is to be installed by Council at the Developer's expense,
- b. sewerage, including;
 - any decommissioning or relocation of existing public sewer mains within the site.
 - details of any proposed bridging over sewer mains, showing that proposed piers or foundations are located outside the zone of influence of the sewer main
 - Note, the existing sewer network within the development site is to remain active at all times.
- c. drainage works,
 - the connection of a private stormwater drain to a public stormwater drain,
 - the installation of stormwater quality control devices,
 - erosion and sediment control works.

[PCC1195]

26. A Revised Traffic Noise Impact report is to be prepared for submission to council prior to the issue of the Construction Certificate. Such Report shall consider any proposed Pacific Highway upgrading information and shall make recommendations relating to the provision of noise barriers and the like and/or any necessary building shell acoustic treatments required to achieve internal noise criteria.

The Report shall be prepared by an appropriately qualified and experienced acoustic consultant.

All recommendations as to barriers and building shell treatments as contained within the Report shall be implemented to the satisfaction of Council's General Manager or his Delegate.

Notwithstanding the above the following internal noise objectives for all habitable rooms under ventilated conditions shall as a minimum comply with the following:

All habitable rooms other than sleeping rooms: 45 dB(A) Leq(15hr) and 40 dB(A) Leq (9hr) and Sleeping rooms : 35 dB(A) Leq(9hr).

[PCCNS01]

27. An Acid Sulfate Soils Management Plan complying with the provisions of the NSW ASSMAC Guidelines shall be submitted to Council for consideration and approval by Council's Environmental Health Officer prior to the issue of the Construction Certificate. Such Report shall detail how Acid Sulfate Soils are to be managed during the construction works. All recommendations of the Acid Sulfate Soils Management Plan shall be implemented to the satisfaction of Council's General Manager or his Delegate.

[PCCNS02]

28. Runoff from all hardstand areas associated with the development, (including the driveway access, all car parking and hardstand landscaping areas and excluding roof areas and the drainage system capturing stormwater runoff from Elsie Street between Lot 576 DP755740 and Lot 577 DP755740) must be treated to remove oil and sediment contaminants prior to discharge. All permanent stormwater treatment devices must be sized according to Council's Development Design Specification D7 – *Stormwater Quality*, Section D7.12. Engineering details of the proposed devices, including maintenance schedules, shall be submitted with a s68 Stormwater Application for approval prior to issue of a Construction Certificate.

The Construction Certificate Application shall also include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils Development Design Specification D7 - Stormwater Quality.

Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.

The stormwater and site works may incorporate water sensitive design principles and where practical, integrated water cycle management.

Specific Requirements to be detailed within the Construction certificate application include:

- (a) Shake down area shall be installed within the property, immediately prior to any vehicle entering or exiting the site prior to any earthworks being undertaken.

- (b) Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly.

[PCCNS03]

29. Prior to the issue of a Construction Certificate, application for Road Closure (including payment of all associated fees) shall be made to Council covering all drainage infrastructure proposed within Council's public road (between Lot 576 DP755740 and Lot 577 DP755740) as per Drawing No. SW001 Issue A, prepared by Knobel Consulting Ptd Ltd, dated 05-08-09.

Note , the actual inlet structure must be contained entirely within the subject site.

[PCCNS04]

30. Prior to the issue of the Construction Certificate, amended plans for Block C complying with Part D (Access and Egress) of the BCA are to be submitted to Council for approval.

[PCCNS05]

31. A detailed Landscaping Plan is to be submitted and approved by Council's General Manager or his delegate which includes:

- a. an assessment of the proportion of the site (%) intended to be landscaped;
- b. a montage showing mature landscaping with selected native species in relation to building elevations;
- c. a full revision of the plant species list is required to illustrate use of at least 80% of total plant numbers as local native species, no environmental weed species capable of spreading into surrounding down slope natural environments and restricted selected plant species suited to site conditions;
- d. deletion of the following species currently included on submitted landscaping plans: *Acmena hemilampra* (Broad-leaved Lilypillly), *Araucaria cunninghamii* (Hoop Pine), *Acronychia imperforata* (Beach Acronychia), *Acronychia littoralis* (Scented Acronychia), *Allocasuarina torulosa* (Forest She-Oak), *Alpinia purpurata* (Purple Lady), *Banksia aemula* (Wallum Banksia), *Banksia integrifolia* (Coast Banksia), *Banksia robur* (Swamp Banksia), *Banksia serrata* (Old Man Banksia), *Callitris columellaris* (Coastal Cypress Pine), *Cassia marksiana* (Brush Cassia), *Eucalyptus microcorys* (Tallowwood), *Eucalyptus pilularis* (Blackbutt), *Eucalyptus robusta* (Swamp Mahogany), *Eucalyptus tereticornis* (Forest Red Gum), *Ficus macrophylla* (Moreton Bay Fig), *Gossia fragrantissima* (Fragrant Myrtle), *Grevillea Coastal Glow*, *Lomandra tanika* (Mat Rush), *Lophostemon confertus* (Brushbox), *Melaleuca quinquenervia* (Paperbark), *Melicope elleryana* (Pink Euodia), *Sophora tomentosa* (Silver Bush), *Syzygium jambos* (Rose Apple), and *Syzygium moorei* (Durobby).
- e. Provision of replacement species selected in accordance with Appendix 5 of Planning for Bushfire Protection Guidelines (2006) and Section 6 of the Asset Protection Standards, as species that have low flammability (low ignitibility, low sustainability and combustibility, eg broad and fleshy leaves or very thin and difficult to ignite, smooth barked, low or lacking volatile oil glands or resin, compact dense foliage), that are suitable for planting near buildings, and do not have the potential to impact on the ecological integrity

of the threatened species and ecological communities occurring in the locality (within 5 km surrounding site). Species that may be included are: *Blechnum cartilagineum* (Gristle Fern), *Cyathea cooperi* (Tree Fern), *Cordyline congesta* (Tooth-leaved Palm Lily), *Alocasia brisbanensis* (Cungevoi), *Glochidion sumatranum* (Cheesetree), *Syzygium australe* (Brush Cherry), *Syzygium smithii* (Lillypilly), *Syzygium oleosum* (Blue Lillypilly), *Microsorium scandens* (Fragrant Fern), *Aphananthe philippinensis* (Rough-leaved Elm), *Arthropteris tenella* (Fern), *Piper novae-hollandiae* (Giant Pepper Vine), *Pollia crispata* (Pollia), *Tristaniopsis laurina* (Water Gum), *Waterhousea floribunda* (Weeping Lillypilly), *Streblus brunonianus* (Whalebone Tree), *Eleaocarpus obovatus* (Hard Quandong), *Cryptocarya obovatus* (Pepperberry), and *Elatostemna reticulatum* (Rainforest Spinach).

- f. species proposed on the landscaping plans appropriate for inclusion on amended landscaping plans include: *Crinum pedunculatum* (Swamp Lily), *Baloskion tetraphyllum* (a sedge), *Hibbertia scandens* (Climbing Guinea Flower), *Lomandra longifolia* (Spiny-headed Mat Rush), and *Pandorea jasminoides* (Bower Vine).
32. An Environmental Restoration Plan (ERP) is required to be prepared by a person qualified in bushland regeneration or ecological restoration and with knowledge and experience in local vegetation community (eg. wetlands, floodplains, rainforest,) for areas of environmental repair works and for proposed planting areas. The ERP is for the protection and management of the Lowland Rainforest on Floodplain endangered ecological community that has been recorded as occurring on the subject site. The ERP shall be submitted and approved by the General Manager or his delegate and shall include:
- a. an appraisal of the present condition of remnant vegetation;
 - b. consideration to mitigating direct and indirect impacts (resulting from proposed fill, acid sulphate soil management, bushfire risk mitigation, retaining walls, landscaping, erosion control measures, stormwater quality controls, habitat restoration-compensation) on and off site, and to the development of appropriate mitigation and compensatory measures;
 - c. a plan overlaying an aerial photograph of the site which divides the area into zones for regeneration and zones for planting, including connections between existing vegetation where appropriate;
 - d. a management strategy for each of the zones, including the approach, methods and techniques to be used for vegetation restoration, with a preference for natural regeneration;
 - e. a schedule of local native plant species to be used for planting (if appropriate), with consideration to the assessment of extent of species in the general locality and their continued viability, and details of any proposed propagation and replanting activities on the site;
 - f. a program of works to be undertaken to remove invasive weed species, including measures such as weed control and protection of the known local population are to be taken to assist the continued viability of the species.;

- g. a schedule of timing of proposed works;
- h. a maintenance, monitoring, evaluation and reporting schedule with developer commitment for a period not less than 5 years, including monitoring to ensure that the proposed development does not lead to a long-term decrease in the size of the population of species within the endangered ecological community;
- i. an adaptive management and corrective action statement detailing how potential problems arising may be overcome and requiring approval of the General Manager or delegate for such changes; and
- j. a Vegetation and Fuel Management Guidelines that provide for the establishment and on-going management of the APZ in accordance with the RFS Planning for Bushfire Protection Guidelines 2006 and Standards for Asset Protection Zones

PRIOR TO COMMENCEMENT OF WORK

- 33. 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.
- 34. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved management plans or the like, shall be installed/operated in accordance with those conditions or plans. [PCW0005]
- 35. 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. [PCW0015]
- 36. The erection of a building in accordance with a development consent must not be commenced until: [PCW0125]
 - (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]

37. 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]

38. 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]

39. Any 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]

40. 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, as well as on all endorsed retaining walls and structures designed over Council's sewer main. The certificate must address any loads or possible loads on the wall from structures adjacent to the wall, as well as confirm that any proposed piers or foundations are located outside the zone of influence of the sewer main.

The certificate must be supported by Geotechnical assessment of the founding material and be endorsed by Council's Community and Natural Resources Division.

[PCW0745]

41. 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]

42. The applicant is to demonstrate that the trees being retained on the site and on adjacent land have been protected in accordance with AS 4970-2009 Protection of trees on development sites.

[PCWNS01]

43. Landscaping works are to be undertaken in accordance with the approved Landscaping Plan.

[PCWNS02]

44. The applicant is to demonstrate that the landscaping works have been and will be undertaken in accordance with the approved Landscaping Plan.

[PCWNS03]

45. All works are to be undertaken in accordance with the approved Environmental Restoration Plan (ERP).

[PCWNS04]

46. The applicant is to demonstrate that the works have been and will be undertaken in accordance with the approved Environmental Restoration Plan (ERP).

[PCWNS05]

DURING CONSTRUCTION

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

[DUR0005]

48. 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]

49. 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]

50. 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]

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

[DUR0235]

52. 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]

53. 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]

54. 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]

55. 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]

56. 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]

57. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".

[DUR0795]

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

[DUR0815]

59. 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]
60. Provision to be made for the designation of at least 3 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]
61. 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]
62. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of an Occupation Certificate. [DUR0995]
63. 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]
64. 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]
65. 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]
66. Any air-handling system, hot or warm water system or water-cooling system and any other regulated system as defined in Part 4, Section 43 of the Public Health Act shall be installed in accordance with the requirements of Part 2, Clauses 6, 7 and 8 of the Public Health (Microbial Control) Regulation 2000. [DUR1645]
67. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design. [DUR1715]
68. A concrete footpath 1.2 metres wide is to be constructed on a compacted base from the north-eastern boundary of the development to Laura Street in accordance with Councils Development Design and Construction Specifications and Standard Drawing SD013.

Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork and subgrade to be inspected.

[DUR1735]

69. 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]

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

[DUR1845]

71. 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 any use or occupation of the buildings.

[DUR1875]

72. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act.

[DUR1885]

73. Where existing kerb or driveway laybacks are ~~is~~ to be removed for new driveway laybacks, stormwater connections or for any other reason, the kerb or driveway layback must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.

[DUR1905]

74. 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]

75. All retaining walls in excess of 1.2 metres in height or retaining walls and structures that are approved to be constructed over Council's sewer main, must be certified by a Qualified Structural Engineer verifying the structural integrity of the structures 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 Certificate.

[DUR1955]

76. 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]

77. 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]

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

[DUR2245]

79. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

80. All waters that are to be discharged from the site shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l. The contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request.

[DUR2435]

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

[DUR2445]

82. 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]

83. 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]

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

[DUR2505]

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

[DUR2515]

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

[DUR2525]

87. 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]

88. 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]

89. 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]

90. 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]

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

[DUR2625]

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

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

[DUR2655]

93. Landscaping works are to be undertaken in accordance with the approved Landscaping Plan.

[DURNS02]

94. All works are to be undertaken in accordance with the approved Environmental Restoration Plan (ERP).

[DURNS03]

95. The applicant must demonstrate that the trees being retained on the site and on adjacent land to the north and the north-eastern corner can be protected in accordance with AS 4970-2009 Protection of trees on development sites.

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

- 96 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]

- 97 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]

98. 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]

- 99 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]

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

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

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

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

[POC0265]

101. 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]

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

[POC0745]

103. 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]

104. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate. [POC0855]
105. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council. Written approval from Council's General Manager or his delegate must be issued prior to the issue of an Occupation Certificate. [POC0865]
106. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices. [POC0985]
107. 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]
108. Prior to the issue of a final occupation certificate, all conditions of consent are to be met. [POC1055]
109. Prior to the issue of an Occupation Certificate, a certificate of practical completion shall be obtained from Council's General Manager or his delegate for all works required under Section 68 of the Local Government Act. [POCNS01]
110. Prior to the issue of an Occupation Certificate, documentary evidence shall be provided to Council to confirm the registration of easements for drainage of sewer, located centrally over all reticulated public sewer within the subject property. The easement width at any one point shall be at least twice the depth to the main to the finished surface level, plus the diameter of the main, with a minimum width of 3.0m for all sewer mains except the mains approved under dwelling Block C which shall provide a minimum width of 3.5m, as specified under separate condition.
- All easements shall be void of any structures, unless approved otherwise by this consent or Council's General Manager or his delegate.
- All easement shall be created in favour of Council. [POCNS02]
111. An Occupation Certificate shall not be issued for any building associated with this consent until the Road Closure has been completed.
An easement to drain water shall be placed over the drainage infrastructure associated with the Road Closure, providing Council legal rights to discharge stormwater from Elsie Street into this drainage system. [POCNS03]
112. Prior to the issue of an Occupation Certificate, the Developer must have purchased the portion of road closed from Council, at a value as determined by a Registered Valuer. [POCNS04]
113. Prior to the issue of any Occupation Certificate, Works as Executed Plans of all public infrastructure within the subject allotment, shall be submitted in accordance with the provisions of Tweed Shire Council Development Control Plan A5 - Subdivisions Manual and Council's Development Design and Construction 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.

[POCNS05]

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

[PSC0485]

115. Environmental restoration works shall be completed to a level specified in the approved ERP prior to the release of the subdivision certificate and shall be maintained at all times to the satisfaction of the General Manager or his delegate. Trees identified for retention in the Environmental Restoration Plan shall not be removed without separate Council approval.

[PSC0495]

116. All restoration works shall be completed to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Occupation Certificate.

[PSCNS02]

USE

117. 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]

118. 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]

119. 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]

120. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer

[USE0245]

121. 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]

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

122. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones' except for the patch of rainforest vegetation on the northern side of the property.
123. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
124. Property access roads for the development shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006' except that a reversing bay 6 metres wide and 8 metres deep may be used instead of a turning circle.
125. Roller doors, tilt-a-doors and other such doors shall be sealed to prevent the entry of embers into the building
126. All new fencing shall be non-combustible.
127. A minimum 2 metre high radiant heat shield made of non-combustible materials shall be constructed along the full length of the northern, western and eastern boundaries adjacent to the hazard. All posts and rails shall be non combustible. The bottom of the fence is to be in direct contact with the finished ground level or plinth. The northern heat shields shall be inside the rainforest vegetation on the property.
128. New construction of "block A and B1" shall comply with Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" BAL 29 except for the eastern facade which shall comply with Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" BAL 19.
129. New construction of "block B2" shall comply with Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" BAL 12.5 and undertake the following:
- A. The subfloor space shall be enclosed with either:
- a) a wall that complies with Clause 5.4 of AS39592009; or
 - b) a mesh or perforated sheet with a maximum aperture of 2 mm, made of corrosion resistant steel, bronze or aluminum; or
 - c) a combination of the items above.
- NOTE: There are no construction requirements for subfloor supports where the subfloor space is enclosed
- B. Where the subfloor space is unenclosed, the support posts, columns, stumps, piers and poles shall be:
- a) of noncombustible material; or

- b) of bushfire resisting timber (see AS39592009 Appendix F); or
- c) a combination of the items above.

NOTE: This requirement applies to the principal building only and not to verandas, decks, steps, ramps and landings (see Clause 5.7 of AS39592009)

- C. Where the subfloor space is unenclosed, flooring material, including bearers, joists and flooring less than 400 mm above finished ground level, shall be:

- a) noncombustible (e.g., concrete, steel); or
- b) of bushfire resisting timber (AS39592009 see Appendix F); or
- c) particleboard or plywood flooring where the underside is lined with sarking type material or mineral wool insulation; or
- d) a system complying with AS 1530.8.1; or
- e) a combination of any of the items above.

NOTE: There are no construction requirements for elements of elevated floors, including bearers, joists and flooring, if the underside of the element is 400 mm or more above finished ground level.

- D. In relation to unenclosed verandas, decks, steps, ramps and landings the support posts, columns, stumps, stringers, piers, poles and framing (i.e. bearers and joists) shall be:

- a) of noncombustible material; or
- b) of bushfire resisting timber (see AS39592009 Appendix F); or
- c) a combination of the items above.

- E. Parts of handrails and balustrades that are less than 125 mm from any glazing or any combustible wall shall be:

- a) of noncombustible material; or
- b) of bushfire resisting timber (see AS39592009 Appendix F); or
- c) a combination of the items above.

NOTE: Those parts of the handrails and balustrades that are 125 mm or more from the building have no requirements.

- F. External framed walls must incorporate either:

- a) Breather type sarking complying with AS/NZS 4200.1 and with a flammability index of not more than 5 (see AS1530.2) and sarked on the outside of the frame; or
- b) An insulation material conforming to the appropriate Australian Standard for that material.

- 130. New construction of "Block B3" shall comply with Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" BAL 19 and undertake the following:

- A. The subfloor space shall be enclosed with either:

- a) a wall that complies with Clause 6.4 of AS39592009; or
- b) a mesh or perforated sheet with a maximum aperture of 2 mm, made of corrosion resistant steel, bronze or aluminum; or
- c) a combination of the items above.

NOTE: There are no construction requirements for subfloor supports where the subfloor space is enclosed

- B. Where the subfloor space is unenclosed, the support posts, columns, stumps, piers and poles shall be:
- a) of noncombustible material; or
 - b) of bushfire resisting timber (see AS39592009 Appendix F); or
 - c) a combination of the items above.
- NOTE: This requirement applies to the principal building only and not to verandas, decks, steps, ramps and landings (see Clause 6.7 of AS39592009)
- C. Where the subfloor space is unenclosed, flooring material, including bearers, joists and flooring less than 400 mm above finished ground level, shall be:
- a) noncombustible (e.g., concrete, steel); or
 - b) of bushfire resisting timber (AS39592009 see Appendix F); or
 - c) particle board or plywood flooring where the underside is lined with sarking type material or mineral wool insulation; or
 - d) a system complying with AS 1530.8.1; or
 - e) a combination of any of the items above.
- NOTE: There are no construction requirements for elements of elevated floors, including bearers, joists and flooring, if the underside of the element is 400 mm or more above finished ground level.
- D. In relation to unenclosed verandas, decks, steps, ramps and landings the support posts, columns, stumps, stringers, piers, poles and framing (i.e. bearers and joists) shall be:
- a) of noncombustible material; or
 - b) of bushfire resisting timber (see AS39592009 Appendix F); or
 - c) a combination of the items above.
- E. Parts of handrails and balustrades that are less than 125 mm from any glazing or any combustible wall shall be:
- a) of noncombustible material; or
 - b) of bushfire resisting timber (see AS39592009 Appendix F); or
 - c) a combination of the items above.
- NOTE: Those parts of the handrails and balustrades that are 125 mm or more from the building have no requirements.
- F. External framed walls must incorporate either:
- a) Breather type sarking complying with AS/NZS 4200.1 and with a flammability index of not more than 5 (see AS1530.2) and sarked on the outside of the frame; or
 - b) An insulation material conforming to the appropriate Australian Standard for that material.

131. New construction of block C shall comply with Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" BAL 40 except any building elements within 16 metres of the bushfire hazard to the north which are to be constructed to comply with Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" Section 9. However, any material, element of construction or system when tested to the method described in Australian Standard AS1530.8.2 "Methods for fire tests on building materials, components and structures Part 8.2: Tests on elements of construction for buildings exposed to simulated bushfire attack—Large flaming sources" shall comply with Clause 13.8 of that Standard except that flaming of the specimen is not permitted. New construction of the southern elevation shall comply with Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" BAL 29.
132. Roofing shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall have a Flammability Index of no greater than 5 when tested in accordance with Australian Standard AS1530.2-1993 "Methods for Fire Tests on Building Materials, Components and Structures - Test for Flammability of Materials".
133. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

The Motion was **Carried**

FOR VOTE - 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 DA09/0594 for a Change of Use from Dwellings to a Group Home and Internal Alterations at Lot 5 DP 621935, No. 91 Burringbar Road, Burringbar

5

Cr J van Lieshout
Cr P Youngblutt

RESOLVED that Development Application DA09/0594 for a change of use from dwellings to a group home and internal alterations at Lot 5 DP 621935 No. 91 Burringbar Road, Burringbar be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan No 683 Sheet 1 of 3 (Site Plan) prepared by Outpost Design and Drafting Service and dated July 2009, except where varied by the conditions of this consent.
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0005]

3. A maximum of 4 residents shall occupy the group home on the site known as 91 Burringbar Road, unless otherwise approved by the General Manager or his delegate.
4. The building known as the 'Dairy Bales' as labelled on Plan No 683 Sheet 1 (Site Plan) shall be decommissioned in accordance with details to be approved by the General Manager or his delegate. The details shall incorporate the removal of the kitchen sink and associated plumbing, the removal of the internal laundry and associated plumbing and shall provide an amended plan of the building illustrating a revised floor plan. The building known as the 'Dairy Bales' shall thereafter not be used for permanent residential purposes.
5. If the use of the site as a group home facility ceases to continue, the building known as the 'Studio/Garage' on Plan No 683 Sheet 1 (Site Plan) shall be decommissioned in accordance with details to be approved by the General Manager or his delegate. The details shall incorporate the removal of the kitchen sink and associated plumbing, and shall provide an amended plan of the building illustrating revised floor plans. .
6. The residents of the approved group home are to permanently reside in the main dwelling house and the dual occupancy dwelling/granny flat only. No other buildings within the site are to be used for permanent residential habitation.
7. One member of staff is to be present on the site at all times.
8. There shall be no clearance of vegetation on the site, unless otherwise permitted by the General Manager or his delegate.
9. The building known as the 'Storage Shed' on Plan No 683 Sheet 1 (Site Plan) shall be used for storage purposes only.
10. A Building Certificate application shall be submitted for all of the unauthorised building works on the site within 30 days of the date of this consent.
11. A Plan is to be submitted to the General Manager or his delegate officer for approval indicating the vegetation to be removed and retained in accordance with the General Terms of Approval from the Rural Fire Service. The plan is to be submitted within 30 days of the date of this consent.
12. The applicant is requested to provide a statutory declaration from a person with suitable detailed personal historical knowledge of uses and activities conducted on the land within six months of the date of this decision. The statement should confirm the occurrence or otherwise of potentially contaminating activities and storage, decanting and mixing of chemicals. In the absence of such a statement a preliminary contaminated lands assessment should be completed in accordance with relevant NSW EPA Guidelines.
13. A detailed Flood Response Assessment Plan is to be submitted to and approved by the General Manager or his delegate officer within six months of the date of this decision. The plan submitted shall have prior approval of the State Emergency Service.
14. A detailed Management Plan including methods of managing operations and safety measures is to be submitted to and approved by the General Manager or his delegate within six months of the date of this decision. The Management Plan shall address complaint handling procedure, incident reporting, daily management of safety risk, monitoring and emergency support for staff.

PRIOR TO COMMENCEMENT OF WORK

15. The erection of a building works relating to the bathroom refit and removal of existing laundry 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]

16. 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]

17. 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]

DURING CONSTRUCTION

18. 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]

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

[DUR0405]

21. 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]

22. 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]

23. 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]

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

[DUR2565]

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. 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]

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. 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]

31. Adequate natural or mechanical ventilation must be provided to the satisfaction of the General Manager or his delegate.

[USE0865]

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

[USE0965]

33. The premises must be provided with facilities that are adequate for the purpose of keeping towels, appliances, utensils and the like clean. [USE1005]
34. Suitable receptacles with close fitting lids must be provided and maintained in a clean and serviceable condition for soiled towels and trade wastes. [USE1015]
35. Bedding and flooring is to be provided to each guest room, which are regularly cleaned and maintained so as not to provide harbourage for vermin of any description. [USENS01]
36. Each guest room shall be provided with flyscreening to at least one openable window. [USENS02]
37. Any refrigerator utilised for the storage of food for guests shall maintain food at below 5 degree Celsius. [USENS03]

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

1. At the commencement of the change of use and in perpetuity the property around all existing dwellings to a distance of 30 metres or to the property boundary, shall be maintained as an inner protection area (IPA) as outlined within Section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
2. Water, electricity and gas are to comply with sections 4.1.3 and 4.2.7 of 'planning for bush fire protection 2006.'
3. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'planning for bush fire protection 2006'.
4. The existing dwellings are required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen. Where applicable, this includes any sub floor areas, openable windows, doors, vents, weepholes and eaves.

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

13 [PR-CM] Development Application DA10/0120 for a Three (3) Lot Boundary Alteration at Lot 26 DP 615931 Bartletts Road, Eviron; Lot 1 DP 248515 No. 138 Hawkens Lane, Eviron; Lot 1 DP 774820 Bartletts Road, Tumbulgum

6

Cr D Holdom
Cr P Youngblutt

RESOLVED that Development Application DA10/0120 for a three (3) lot boundary alteration at Lot 26 DP 615931 Bartletts Road, Eviron; Lot 1 DP 248515 No. 138 Hawkens Lane, Eviron; Lot 1 DP 774820 Bartletts Road, Tumbulgum 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 MS09013 Issue 4 prepared by Tweed Shire Council and dated 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. A safe and acceptable access for the movement of machinery and livestock between existing Lots 18 and 19 DP 12676, proposed Lot 3 and proposed Lot 2 shall be maintained at all times across proposed Lot 1.

[GENNS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

4. 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]

5. 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) A Restriction As To User, restricting residential development over proposed Lot 2. Council shall have the authority to revoke, release or modify this restriction.
- (b) Right Of Access shall be created over the portion of proposed Lot 1 being excised from existing Lot 1 DP 774820 and Lot 1 DP 248515. This Right Of Access shall benefit existing Lots 18 and 19 DP 12676 and proposed Lots 2 and 3.

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]

6. 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]

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

1. At the issue of subdivision certificate and in perpetuity, the land surrounding the existing dwelling(s) on Proposed Lot 1, to a distance of 45 metres to the property boundary, shall be maintained as an asset protection zone (APZ) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
2. Water, electricity and gas for the existing dwelling on proposed Lot 1 shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'
3. Property access roads for the existing dwelling on proposed Lot 1 shall comply with section 4.1.3(2) of 'Planning for Bush Fire Protection 2006'
4. The existing dwelling on proposed Lot 1 is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen. Where applicable, this includes sub floor areas, openable windows, doors, vents, weepholes and eaves.

The Motion was **Carried**

FOR VOTE - Unanimous

14 [PR-CM] Development Application DA09/0777.01 for an Amendment to Development Consent DA09/0777 for Outdoor Seating in Association with IGA Supermarket at Lot 5 DP 1121923, No. 11-13 Coronation Avenue, Pottsville

7

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:-

- A. Development Application DA09/0777.01 for an amendment to Development Consent DA09/0777 for outdoor seating in association with IGA supermarket at

Lot 5 DP 1121923, No. 11-13 Coronation Avenue, Pottsville be refused for the following reasons: -

1. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated due consideration or compliance with the 3(b) - General Business zone objectives within Clause 11 of the Tweed Local Environmental Plan 2000, as the proposed development does not provide for the welfare and social needs of the community.
 2. Pursuant to Section 79C(1)(a)(i) the development proposal is not consistent with Clause 8 of the Tweed Local Environmental Plan 2000, as the proposed development results in undue cumulative impacts for the Pottsville community.
 3. Pursuant to Section 79C(1)(c) the development site is not considered suitable for the development as proposed for the following reasons:
 - (a) The proposal reduces the pedestrian access width and thereby reduces the level of service; and
 - (b) The proposal further constricts pedestrian space adjacent to the existing pedestrian crossing which requires a high level of pedestrian and disabled access service.
 4. Pursuant to Section 79C(1)(e) the proposed development, is not within the public interest.
- B. Appropriate regulatory action is to be undertaken when required to ensure compliance with relevant legislation for the use of the road reserve associated with the IGA Supermarket to preserve public health and safety.

The Motion was **Carried**

FOR VOTE - Unanimous

15 [PR-CM] Visitor Carparking Lot 1 DP 525502, No. 4 Second Avenue, Tweed Heads

8

**Cr D Holdom
Cr B Longland**

RESOLVED that Council endorses the following actions in respect of Strata Plan 35133, Lot 1 DP 525502, No. 4 Second Avenue, Tweed Heads:

1. The owners of Strata Plan 35133 be advised that a Section 96 amended application is required to be submitted to Council for consideration of an alternate visitor parking arrangement or the visitor space is to be returned to the approved location parallel to Unit 2A; and

2. The owners of Strata Plan 35133 be advised if neither of the above options is undertaken within sixty days of notification Council will consider legal action against the body corporate for non-compliance with Development Consent 88/212 and Building Permit 1024/88.

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

16 [PR-CM] Cobaki Lakes Project Application - Update of Projects

9

Cr D Holdom
Cr P Youngblutt

RESOLVED that Council endorses that the General Manager writes to the Department of Planning indicating that responses to both the Addendum to the Concept Plan PPR and Project Application PPR relating to the Cobaki Lakes development will be provided after proper assessment has been undertaken and after each matter has been reported to Council.

The Motion was **Carried**

FOR VOTE - Unanimous

17 [PR-CM] Tweed Shire Local Disaster Plan 2010

10

Cr J van Lieshout
Cr D Holdom

RESOLVED that Council:

1. Acknowledges the Tweed Shire DISPLAN 2010 and supports the use of Council resources to fulfil its requirements as identified within the Plan.
2. Receives and notes Attachment 2 "Cross Border Sub Plan 2010", a supporting plan to the Tweed Shire DISPLAN 2010.

The Motion was **Carried**

FOR VOTE - Unanimous

18 [PR-CM] On-Site Sewage Management

11

**Cr B Longland
Cr D Holdom**

RESOLVED that the report on On-Site Sewage Management be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

19 [PR-CM] Demolition of Fire Damaged Dwelling at Lot 1 DP 123061, No 8 Prince Street Murwillumbah

12

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council recovers the costs of \$27,357.00 GST inclusive from the owner for demolition of fire damaged dwelling of the property, Lot 1 DP 123061, No 8 Prince Street, Murwillumbah.

The Motion was **Carried**

FOR VOTE - Unanimous

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

13

**Cr D Holdom
Cr P Youngblutt**

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

The Motion was **Carried**

FOR VOTE - Unanimous

