

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 18 May 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 4.38pm.

IN ATTENDANCE

Cr W Polglase (Mayor), Cr P Youngblutt (Deputy Mayor), Cr D Holdom, Cr B Longland, Cr K Milne, Cr K Skinner, Cr J van Lieshout.

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

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

SUSPENSION OF STANDING ORDERS

288

**Cr D Holdom
Cr K Skinner**

RESOLVED that Standing Orders be suspended to allow Councillors to informally discuss Item 5 of the Agenda.

FOR VOTE - Unanimous

RESUMPTION OF STANDING ORDERS

289

**Cr B Longland
Cr D Holdom**

RESOLVED that Standing Orders be resumed.

FOR VOTE - Unanimous

5 [PR-CM] Development Application DA10/0020 for the Establishment of a Brothel at Lot 411 DP 859933, No. 36 Enterprise Avenue, Tweed Heads South

290

**Cr D Holdom
Cr K Skinner**

PROPOSED that Development Application DA10/0020 for the establishment of a brothel at Lot 411 DP 859933, No. 36 Enterprise Avenue, Tweed Heads South be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and the following plans:

- Dwg 11070 - 1 (Rev 8): Site Plan (as amended in red), prepared by All Design & Drafting and dated 19 March 2010;
- Dwg 11070 - 2 (Rev 8): Lower Floor Plan, prepared by All Design & Drafting and dated 19 March 2010;
- Dwg 11070 - 3 (Rev 8): Mezzanine Floor Plan, prepared by All Design & Drafting and dated 19 March 2010;
- Dwg 11070 - 4 (Rev 8): Elevation & Section, prepared by All Design & Drafting and dated 19 March 2010
- Dwg G2592 (Sheet 1): Carparking Configuration, prepared by Gavin Duffie as submitted on 4 May 2010,

except where varied by the conditions of this consent.

[GEN0005]

2. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.

[GEN0015]

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

[GEN0135]

4. The building shall be provided with systems of mechanical exhaust ventilation and comfort conditioning in accordance with the provisions of part F4.5 (b) of the Building Code of Australia.

[GENNS01]

5. Any car parking floodlighting shall not spill beyond the boundaries of the site. Lighting shall comply with AS 4282 and other relevant Australian Standards. A plan of the lighting shall be approved by the Principal Certifying Authority PRIOR to the issue of a Construction Certificate.

[PCC0055]

6. Section 94 Contributions

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

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

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

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

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

(a) Tweed Road Contribution Plan:

120.93 Trips @ \$936 per Trips	\$113190
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(\$851 base rate + \$85 indexation)

S94 Plan No. 4

Sector2_4

[PCC0215]

7. 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:	2.511 ET @ \$10709 per ET	\$26890.30
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Sewer Banora:	3.211 ET @ \$5146 per ET	\$16523.80
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A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT

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.

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]

PRIOR TO COMMENCEMENT OF WORK

8. The erection of a building in accordance with a development consent must not be commenced until:
- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.
- [PCW0215]*
9. 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]*
10. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:-
- (a) a standard flushing toilet connected to a public sewer, or
 - (b) if that is not practicable, an accredited sewage management facility approved by the council
- [PCW0245]*
11. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and

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

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

[PCW0255]

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

[PCW1065]

DURING CONSTRUCTION

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

[DUR0005]

- 14. The provision of eleven (11) off street car parking spaces are to be allocated to Unit 2 including parking for the disabled where applicable. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.

[DUR0085]

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

- 16. All 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]

- 17. 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]

- 18. 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]

19. 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]

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

[DUR0445]

21. 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

[DUR1005]

22. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.

[DUR1685]

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

[DUR1705]

24. Pursuant to the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with the relevant provisions of AS1428- Design for Access and Mobility.

[DUR1725]

25. 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]

26. 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]

27. 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]

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

[DUR2505]

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

[DUR2515]

30. 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]

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

* 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and

* 50°C in all other classes of buildings.

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

[DUR2555]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

32. 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]

33. 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]

34. All landscaping work (approved under DA08/0985) is to be completed in accordance with the approved plans prior to any use or occupation of Unit 2.

[POC0475]

35. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

USE

36. 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]

37. The use being restricted to the floor area designated on the approved plan.
[USE0415]
38. The operation of the Brothel shall comply with the provisions of the latest version of the NSW Workcover "Health and safety Guidelines for Brothels".
[USENS01]
39. Where it is proposed to install swimming pools and/or spa pools within the Brothel, then all such swimming pools and spa pools shall be operated in compliance with the latest version of the NSW Department of Health "Public Swimming Pool and Spa Pool Guidelines" and "Protocol for Minimising the Risk of Cryptosporidium Contamination in Public Swimming pools and Spa Pools".
[USENS02]
40. Appropriate waste containers acceptable to the NSW Department of Health are to be placed in all work rooms for the collection and disposal of soiled articles such as condoms, tissues, gloves and the like. Such waste containers should have sliding lids to eliminate odours. All contaminated sharps, e.g. needles shall be placed in non-reusable sharps containers which comply with Australian Standard-AS 4031 for their disposal.

Additional Conditions:

41. All security staff to be licensed in accordance with the current security industry standards. Evidence of this record to be provided to Council prior to the issuing of an Occupation Certificate.
42. Proof of a probity check, by the applicant, to be supplied to Council of all financially interested parties prior to the issuing of an Occupation Certificate.

The Motion was **Lost**

FOR VOTE - Cr D Holdom, Cr K Skinner

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

291

Cr W Polglase

Cr J van Lieshout

RESOLVED that Development Application DA10/0020 for the establishment of a brothel at Lot 411 DP 859933, No. 36 Enterprise Avenue, Tweed Heads South be refused for the following reasons:

1. The proposal is inconsistent with the provisions of Clause 4(d) of the Tweed Local Environmental Plan 2000 in that the proposal is inconsistent with the desired character for the area and the Tweed in general.
2. The proposal is inconsistent with the provisions of Clause 8(1)(c) of the Tweed Local Environmental Plan 2000 in that the proposal will potentially create adverse community impact.

3. The proposal is inconsistent with the provisions of Clause 8(1)(c) of the Tweed Local Environmental Plan 2000 in that the proposal will create unacceptable cumulative impacts.
4. The proposal is inconsistent with the provisions of Clause 8(1)(c) of the Tweed Local Environmental Plan 2000 in that the proposal will create unacceptable cumulative impacts with respect to the character of the area.
5. The proposal is not supported upon the site given its potential to impact upon both current and future uses on sites surrounding the subject property.
6. The proposal is not compliant with the provisions of Section A8 of the Tweed Development Control Plan and that approval would weaken the integrity of the Plan.

The Motion was **Carried** (Refer Minute No **291**)

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

AGAINST VOTE - Cr D Holdom, Cr K Skinner

292

Cr W Polglase

Cr D Holdom

RESOLVED that:

1. Council prepares a new Section A8 of the Tweed Development Control Plan and that this new component of the Development Control Plan be reported back to the Council as a priority.
2. The new Development Control Plan incorporates a set of new controls relating to the appearance, siting, scale and operation of brothels in the Tweed area.

The Motion was **Carried** (Refer Minute No **292**)

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

AGAINST VOTE - Cr J van Lieshout

6 [PR-CM] Development Application DA08/0755 for a 24 Lot Subdivision (18 Lots into 24) at Lots 1 -18, Section 4 DP 14895, Casuarina Way, Kingscliff

293

**Cr D Holdom
Cr K Skinner**

RESOLVED that:

1. The report on Development Application DA08/0755 for a 24 Lot Subdivision (18 Lots into 24) at Lots 1-18 Section 4 DP 14895, Casuarina Way, Kingscliff be received and noted.
2. Council drafts amendments and exhibit Tweed Development Control Plan (TDCP) Section B11 – Seaside City in accordance with Section 74E of the Environmental Planning and Assessment Act 1979 to reflect the negotiated outcomes contained within the NSW Land and Environment Court Determination for DA08/0755.
3. Council drafts amendments and exhibit Tweed Section 94 Plan No. 28 – Seaside City in accordance with Section 94EA of the Environmental Planning and Assessment Act 1979 to reflect the negotiated outcomes contained within the NSW Land and Environment Court Determination for DA08/0755.
4. Council enters into negotiations with Richtech Pty Ltd in regards to the Seaside City Planning Agreement to reflect the negotiated outcomes contained within the NSW Land and Environment Court Determination for DA08/0755.

The Motion was **Carried**

FOR VOTE - Unanimous

7 [PR-CM] Development Application DA10/0239 for a 13 Lot Residential Subdivision (Department of Planning MP08_0118) at Lot 4 DP 876253, Willow Avenue, Bogangar

294

**Cr D Holdom
Cr P Youngblutt**

PROPOSED that Council endorses the attached submission on the Part 3 Major Projects application (MP08_0118) for a 13 lot residential subdivision at Lot 4 DP 876253 Willow Avenue, Bogangar and be submitted to the NSW Department of Planning.

295

AMENDMENT

**Cr K Milne
Cr B Longland**

RESOLVED that Council:

1. Endorses the attached submission on the Part 3 Major Projects application (MP08_0118) for a 13 lot residential subdivision at Lot 4 DP 876253 Willow Avenue, Bogangar for submission to the NSW Department of Planning.
2. Provides the Mayoral Minute Item "c3 [MM] Department of Planning Part 3A Processes" and subsequent letter as an attachment to this Planning Report when making the submission to the Department of Planning.
3. Liaises with the Department of Planning to seek permission to provide further comment to this development application.

The Amendment was **Carried**

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

AGAINST VOTE - Cr P Youngblutt, Cr K Skinner

The Amendment on becoming the Motion was **Carried** - (Minute No **295** refers)

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

AGAINST VOTE - Cr P Youngblutt, Cr K Skinner

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

296

**Cr J van Lieshout
Cr K Skinner**

RESOLVED that this item be deferred for further consultation and Workshop with Council.

The Motion was **Carried**

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

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

9 [PR-CM] Development Application DA08/1056 for a Conversion of an Existing Farm Shed to Rural Workers Dwelling at Lot 1 DP 803636, No. 9 Sanderson Place, Dungay

297

**Cr D Holdom
Cr K Skinner**

RESOLVED that: -

- A. Development Application DA08/1056 for the conversion of an existing farm shed to rural workers dwelling at Lot 1 DP 803636, No. 9 Sanderson Place, Dungay be refused for the following reasons:
1. The Department of Planning has not issued concurrence.
 2. The proposed land use does not comply with the 40 hectare minimum development standard contained within Clause 18(3) of the Tweed LEP 2000.
 3. The SEPP 1 objection has not demonstrated that the development standard is unnecessary and unreasonable.
- B. Council engages it's Solicitors to commence legal proceedings (for a breach of the Environmental Planning and Assessment Act 1979) in respect of the unauthorised works at Lot 1 DP 803636, No. 9 Sanderson Place, Dungay, and seek reinstatement of the use as farm shed as part of the legal proceedings.

The Motion was **Carried**

FOR VOTE - Unanimous

SUSPENSION OF STANDING ORDERS

298

**Cr P Youngblutt
Cr K Skinner**

RESOLVED that Standing Orders be suspended to deal with Item 12 and 15 of the Agenda.

FOR VOTE - Unanimous

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

299

**Cr W Polglase
Cr D Holdom**

RESOLVED that this item be deferred until later in the meeting.

FOR VOTE - Unanimous

ADJOURNMENT OF MEETING

Adjournment for dinner at 6.42 pm.

RESUMPTION OF MEETING

The Meeting resumed at 7.40 pm to further consider Item 12 of the Agenda.

300

**Cr D Holdom
Cr P Youngblutt**

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

1. Delete Condition No. 1 and replace it with Condition No. 1A which reads as follows:
 - 1A. The development shall be completed in accordance with the Statement of Environmental Effects and Plans Numbered 290.3 Sheet 01, 02, 03, 07, 08, 09 and 10, prepared by Tweed Coast Design Drafting and dated June 2009, except where varied by the conditions of this consent.
2. Delete Condition No. 2 and replace it with Condition No. 10.1 which reads as follows:
 - 10.1. Prior to the issue of a Construction Certificate plans detailing adequate privacy screening to the south and western facade of the building and deck, to protect privacy of adjacent units, shall be submitted to Council and approved by the General Manager or his Delegate

[GEN0005]

[PCCNS01]

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

3A. Section 94 Contributions

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

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

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

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

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

- (a) Tweed Road Contribution Plan:

11.3678 Trips @ \$930 \$10,572.05

S94 Plan No. 4

Sector7_4

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

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

where:

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

and:

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

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

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

Admin. Administration component - 5% - see Section 6.5

(b) Shirewide Car Parking	
7 space/s @ \$13,619	\$95,333
S94 Plan No. 23	

[PCC0215/PSC0175]

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

- 4A. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

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

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

Water DSP6:	0.4244 ET @ \$10346.9	\$4,391.22
Sewer Hastings Point:	0.6366 ET @ \$4972.1	\$3,165.24

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

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

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

[PCC0265/PSC0165]

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

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

[PCCNS02]

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

- 2.1. The approved deck is not to exceed 106.1m² in area.

[GENNS02]

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

[GENNS03]

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

301

AMENDMENT 1

**Cr J van Lieshout
Cr K Milne**

PROPOSED that Development Application DA08/1171.01 for an amendment to DA08/1171 for addition of deck to existing surf life saving club at Lot 7010 DP 1055324; Lot 2 DP 1083851, Pandanus Parade, Cabarita Beach be approved as per the recommendation contained within Council's report, subject to the waiving of the fees contained in conditions 3A and 4A and deletion of condition 6 section 2.2 of development consent for DA08/1171.01

The Amendment 1 was **Lost**

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

AGAINST VOTE - Cr D Holdom, Cr K Skinner, Cr B Longland, Cr W Polglase

302

AMENDMENT 2

**Cr D Holdom
Cr K Milne**

RESOLVED that this item be deferred to a Workshop to be held before the next Council meeting to obtain clarification of the liquor licensing and to allow officers time for a in depth analysis of the changes referred at the meeting.

Amendment 2 was **Carried**

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

AGAINST VOTE - Cr B Longland

The Amendment 2 on becoming the Motion was **Carried** - (Minute No **302** refers)

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

AGAINST VOTE - Cr B Longland

15 [PR-CM] Development Application D90/0436.05 for an Amendment to Development Consent D90/0436 for the Erection of a Tavern and Nine (9) Shops at Lot 171 DP 629328, No. 28-40 Overall Drive, Pottsville

303

Cr D Holdom
Cr P Youngblutt

RESOLVED that:

- A. The ATTACHMENT be treated as CONFIDENTIAL in accordance with Section 10A(2)g) of the Local Government Act, 1993, because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege
- B. Development Application D90/0436.05 for an amendment to Development Consent D90/0436 for the erection of a tavern and nine (9) shops at Lot 171 DP 629328, No. 28-40 Overall Drive, Pottsville be approved and the consent be amended as follows:

1. Condition No. 9 is to be deleted and replaced with Condition No. 9A which reads as follows:

9A. The $L_{A10, 15 \text{ mins}}$ noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8 kHz inclusive) by more than 5 dB between 7.00am and 10.30pm at the boundary of any affected residence.

The $L_{A10, 15 \text{ mins}}$ noise level emitted from the licensed premises shall not exceed the background noise level in any Octave band Centre Frequency (31.5 Hz – 8 kHz inclusive) between 10.30pm and 7.00am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 10.30pm and 7.00am.

2. Condition No.10 is to be deleted and replaced with Condition No. 10A which reads as follows:

10A. Hours of operation for a maximum period of 12 months from the date of this amended consent:

Sunday to Thursday – 10.00am to 10.00pm

Friday and Saturday – 10.00am to 12.00 Midnight

Variation of the above hours are permitted for a maximum of six (6) times per year with the written approval of the General Manager, or delegate, of Tweed Shire Council within the 12 month period.

Following the lapse of the 12 month period the hours of operation shall be restricted to 10.00am to 10.00pm.

Any further application for the variation of hours of operation outside of 10.00am to 10.00pm shall be prepared by a suitably qualified person and accompanied by a noise impact assessment in accordance with *AS 1055 Acoustics – Description and measurement of environmental noise*, the *Noise Guide for Local Government June 2004* and any other relevant and accepted guideline.

3. Condition No. 11 is to be deleted and replaced with Condition No. 11A which reads as follows:
 - 11A. The existing screen fences along the side and rear boundaries are to be repaired prior to the commencement of extended trading hours and be maintained in good condition at all times, to the satisfaction of Council's General Manager or his delegate.
4. The following new Conditions are to be added:
 17. With the exception of compliance with the requirements of the Craig Hill or Warrick Smith Acoustic Reports, the Tavern shall operate in accordance the Plan of Management Rev B dated 13 January 2010, except where varied by conditions of consent.
 18. Patrons are not permitted to remain outside the main building within the unenclosed areas after 10.00pm.
 19. The Licensee shall maintain a Register of Incidents to record complaints and incidents and mitigation action taken. A log book shall also be carried on the courtesy bus, with any incidents noted in the log book being transferred to the Register of Incidents. The register shall remain on the premises and made available to any authorised officer of Council upon any reasonable request".
 20. The sale or supply of liquor is restricted for consumption on the premises only, after 10.00pm.
 21. At least one (1) uniformed security officer is to be employed from 10.00pm, on those nights where the premises trades after 10.00pm, until half (1/2) an hour after closing or until the last patron has left the vicinity, whichever is the later. Security is to regularly patrol the car park and vicinity from 10.00pm until closing and to principally patrol those areas after closing. Their duties will include requesting patrons to leave the hotel and vicinity without noise or disturbance so neighbours and nearby residents are not disturbed.
 22. The Licensee is to provide a courtesy bus for patrons wishing to depart the licensed premises, on those evenings where the premises trades past 10.00pm, from at least 10.00pm until the last patron has left the premises. The courtesy bus shall have at least twelve (12) seats, provide a shuttle service free of charge and shall transport patrons to their requested destination, being no more than within the suburb of Pottsville.
 23. The car park rear (western) gates shall be closed at 10.00pm, but not locked.

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

304

Cr W Polglase
Cr D Holdom

RESOLVED that Standing Orders be further suspended to deal with Item 54 of the Agenda.

The Motion was **Carried**

FOR VOTE - Unanimous

54 [NOR-Crs W Polglase, P Youngblutt, K Skinner] Double View Road - Parish of Condong- Road Closure Application

NOTICE OF RESCISSION:

305

Cr W Polglase
Cr P Youngblutt

RESOLVED that Council resolution at Minute No 232 in relation to Item 28 "[EO-CM] Double View Road - Parish of Condong, Road Closure Application" of the meeting held Tuesday 20 April 2010 being:-

"... that:-

- 1. Council consents to the closure of part of the road reserve that runs through Lots 9-13 in DP 119424, and north south and east of Lot 2 in DP 563711 at Farrants Hill; and*
- 2. As a condition of this consent the owners of Lots 1 and 2 DP 563771 are to open and dedicate public road access from Booths Road to the boundary of Lot 69 DP 755698 prior to closure of the road reserve.*
- 3. As a condition of the consent, the owners of Lots 11 and 12 in DP 11924 be required to create a Right of Carriageway in favour of Lot 11 and burdening Lot 12 to secure access to Lot 11 in the event that Lot 11 is sold separately to Lot 12.*
- 4. The applicant bears all the survey and legal costs and purchases the subject land as determined in value by a local registered valuer.*

5. *Easements be created over public authority reticulation services, if any; and*
6. *All necessary documentation be executed under the Common Seal of Council.*

be rescinded.

The Motion was **Carried**

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

AGAINST VOTE - Cr B Longland, Cr K Milne

306

Cr D Holdom

Cr K Skinner

RESOLVED that Council does not support the closure of part of the road reserve that runs through Lots 9-13 in DP 119424, and north south and east of Lot 2 in DP 563711 at Farrants Hill.

The Motion was **Carried**

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

AGAINST VOTE - Cr B Longland, Cr K Milne

307

Cr D Holdom

Cr P Youngblutt

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

10 [PR-CM] Development Application DA09/0787 for an Addition & Renovation to Dual Occupancy at Lot 285 DP 542540, No. 68 Sutherland Street, Kingscliff

308

Cr D Holdom
Cr K Skinner

RESOLVED that:

1. State Environmental Planning Policy No. 1 objection to Clause 32B of the North Coast Regional Environmental Plan regarding overshadowing be supported and the concurrence of the Director-General of the Department of Planning be assumed.
2. Development Application DA09/0787 for an addition & renovation to an existing dual occupancy at Lot 285 DP 542540, No. 68 Sutherland Street, Kingscliff 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 1181D (amendment 1) sheet 1, 2, 4 - 8 prepared by Parameter Designs and dated 30 March 2010, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

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

[GEN0135]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

[PCC0285]

PRIOR TO COMMENCEMENT OF WORK

5. The erection of a building in accordance with a development consent must not be commenced until:
 - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and

- (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.
- [PCW0215]
6. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.
- [PCW0225]
7. Residential building work:
- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - * in the name and licence number of the principal contractor, and
 - * the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - * the name of the owner-builder, and
 - * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

- 8. 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]

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

[PCW1065]

DURING CONSTRUCTION

- 10. 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]

- 11. 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]

- 12. 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]

13. 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]

14. 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]

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

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

[DUR0645]

16. 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]

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

- Noise, water or air pollution
- dust during filling operations and also from construction vehicles
- material removed from the site by wind

[DUR1005]

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

- (a) within each sole occupancy unit, located on or near the ceiling in any storey -
- (i) containing bedrooms -
- * between each part of the sole occupancy unit containing bedrooms and the remainder of the sole occupancy unit; and
 - * where bedrooms are served by a hallway, in that hallway; and
- not containing any bedrooms, in egress paths; and

The smoke detectors serving the second floor are to be interconnected with the smoke detectors in the upper floor.

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

[DUR1245]

19. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

20. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

- (a) internal drainage, prior to slab preparation;
- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- (c) external drainage prior to backfilling.
- (d) completion of work and prior to occupation of the building.

[DUR2485]

21. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.

[DUR2495]

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

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

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

[DUR2555]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

23. 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]

24. 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]

25. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

USE

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

[USE0175]

The Motion was **Carried**

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

- 11 [PR-CM] Development Application DA05/0004.01 for an Amendment to Development Consent DA05/0004 for Filling of Land at Lot 26D, 26C DP 10715; Lot 2-9 DP 781714; Lot 3 DP 828298; Lot 11-14 DP 871753, Quigan Street; Turnock Street, Kingscliff; Cudgen Road;

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Cr D Holdom
Cr P Youngblutt

RESOLVED that Development Application DA05/0004.01 for an amendment to Development Consent DA05/0004 for filling of land at Lot 26D, 26C DP 10715; Lot 2, 3, 4, 5, 6, 7, 8, 9 DP 781714; Lot 3 DP 828298; Lot 11, 12, 13, 14 DP 871753, Quigan Street Kingscliff; Turnock Street Kingscliff; Cudgen Road Cudgen; and Tweed Coast Road Cudgen be approved subject to the following amendment to the conditions of consent:

1. The deferred commencement criteria is to be amended to allow five years from the original date of determination for Deferred Commencement Point B and C to be satisfied and allow four years from the original date of determination for Deferred Commencement Point A to be satisfied.

This would result in the Deferred Commencement Condition being amended to read as follows:

"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".

Schedule A – Point A - such evidence is to be provided within four (4) years from the original date of determination of DA05/0004 (which was 28/08/2008).

Schedule A – Point B and C - such evidence is to be provided within five (5) years from the original date of determination of DA05/0004 (which was 28/08/2008).

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".

The Motion was **Carried**

FOR VOTE - Unanimous

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

This item was dealt with earlier in the meeting - refer Minute No 302.

- 13 [PR-CM] Development Application DA09/0751 for a Two (2) Stage Dual Occupancy at Lot 9 Section 6 DP 17606, No. 5 Moss Street, Kingscliff

- 310 **** (Please refer to the correction of this resolution amended at Minute Number 362 - Confirmation of Minutes - meeting held 15 June 2010 and etched in red reproduced at the end of this item)**

Cr D Holdom
Cr P Youngblutt

RESOLVED that Development Application DA09/0751 for a two (2) stage dual occupancy at Lot 9 Section 6 DP 17606, No. 5 Moss Street, Kingscliff 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 DA 0.01D, DA 1.01 C, DA 1.02 D, DA1.03 D, DA 2.01 D, DA 2.02 D, DA 2.03 E and DA 2.04 D prepared by Paul Uhlman Architects and dated September and November 2009, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

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

[GEN0135]

4. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0300]]

5. The development shall be completed in two (2) stages. Stage 1 - Construction of Dwelling A including additional courtyard, outdoor dining, deck area, screening and landscaping. Stage 2 - Construction of Dwelling B subject to alterations to remove the courtyard, outdoor dining, deck and screening.

[GENNS01]

6. Foundations for the proposed stage one structure shall be at least one metre horizontally clear of the existing sewer line and of the proposed stage two relocated sewer line. Foundations shall also be to below the zone of influence of the existing and proposed sewer lines. The underside of the building above the sewer line shall have a minimum clearance of 2.5m above and for one metre either side of the sewer line. The area above the sewer may only be paved with readily removable paving, e.g. pavers less than 600mm square.

[GENNS02]

7. At stage two, it is required that the sewer be relocated so that the sewer manhole within the property is not located beneath the structure. Foundations for the proposed stage two structure shall be at least one metre horizontally clear of the proposed stage two relocated sewer line. Foundations shall also be to below the zone of influence of the sewer lines. The underside of the building above the sewer line shall have a minimum clearance of 2.5m above and for one metre either side of the sewer line. The area above the sewer may only be paved with readily removable paving, e.g. pavers less than 600mm square.

[GENNS03]

8. Prior to relocation of the sewer, approval under section 68 of the Local Government Act 1993 shall be obtain from Council.

[GENNS04]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. 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.

STAGE 1

Nil

STAGE 2

- | | |
|-------------------------------------|--------|
| (a) Tweed Road Contribution Plan: | |
| 6.5 Trips @ \$861 per Trips | \$5597 |
| (\$782 base rate + \$79 indexation) | |
| S94 Plan No. 4 | |
| Sector6_4 | |
| (b) Open Space (Casual): | |
| 1 ET @ \$526 per ET | \$526 |
| (\$502 base rate + \$24 indexation) | |
| S94 Plan No. 5 | |
| (c) Open Space (Structured): | |
| 1 ET @ \$602 per ET | \$602 |
| (\$575 base rate + \$27 indexation) | |
| S94 Plan No. 5 | |
| (d) Shirewide Library Facilities: | |
| 1 ET @ \$792 per ET | \$792 |
| (\$792 base rate + \$0 indexation) | |
| S94 Plan No. 11 | |
| (e) Bus Shelters: | |
| 1 ET @ \$60 per ET | \$60 |
| (\$60 base rate + \$0 indexation) | |
| S94 Plan No. 12 | |

(f) Eviron Cemetery: 1 ET @ \$120 per ET (\$101 base rate + \$19 indexation) S94 Plan No. 13	\$120
(g) Community Facilities (Tweed Coast - North) 1 ET @ \$581 per ET (\$581 base rate + \$0 indexation) S94 Plan No. 15	\$581
(h) Extensions to Council Administration Offices & Technical Support Facilities 1 ET @ \$1759.9 per ET (\$1759.9 base rate + \$0 indexation) S94 Plan No. 18	\$1759.9
(i) Cycleways: 1 ET @ \$447 per ET (\$447 base rate + \$0 indexation) S94 Plan No. 22	\$447
(j) Regional Open Space (Casual) 1 ET @ \$1031 per ET (\$1031 base rate + \$0 indexation) S94 Plan No. 26	\$1031
(k) Regional Open Space (Structured): 1 ET @ \$3619 per ET (\$3619 base rate + \$0 indexation) S94 Plan No. 26	\$3619

[PCC0215/PSC0175]

10. 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:

STAGE 1

Nil

STAGE 2

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

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

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

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]

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

[PCC0285]

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

(a) copies of compliance certificates relied upon

(b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:

- earthworks
- roadworks/furnishings
- stormwater drainage
- water supply works
- sewerage works
- landscaping works
- sedimentation and erosion management plans
- location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure)

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

[PCC0985]

13. Prior to the issue of a construction certificate a demolition plan shall be submitted to the satisfaction of the General Manager. All works shall comply with that approved plan.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0215]

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

[PCW0225]

16. Residential building work:

- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - * in the name and licence number of the principal contractor, and
 - * the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - * the name of the owner-builder, and

* if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

17. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:-

- (a) a standard flushing toilet connected to a public sewer, or
(b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

18. 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]

19. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land or is likely to effect the integrity of the adjoining land, the person causing the excavation to be made must comply with the following:

- (a) The person must, at the person's own expense:
(i) preserve and protect the building / property from damage; and
(ii) if necessary, underpin and support the building in an approved manner.
(b) The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0765]

20. 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]

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

[PCW1065]

DURING CONSTRUCTION

22. 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]

23. 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]

24. 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]

25. 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]
26. 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]
27. 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]
28. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited.
- [DUR0815]
29. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan Part A1 to the satisfaction of the Principal Certifying Authority.
- Please note timber retaining walls are not permitted.
- [DUR0835]
30. 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]
31. 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]
32. 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]
33. 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]

34. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

35. 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]

36. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".

[DUR2195]

37. 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]

38. 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]

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

[DUR2425]

40. 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.

[DUR2435]

41. 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 stack work 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]

42. 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]
43. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
- [DUR2505]
44. 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]
45. 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]
46. 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]
47. 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]
48. Sedimentation and erosion control measures shall be placed and maintained to the satisfaction of the General Manager which are effective in preventing liberation of sediment materials to any waterway or stormwater.

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

49. 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]
50. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

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

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

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

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

[POC0265]

51. 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]

52. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

USE

53. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.

[USE0125]

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

[USE0175]

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

[USE0225]

The Motion was **Carried**

FOR VOTE - Unanimous

**

Item 13 [PR-CM] Development Application DA09/0751 for a Two (2) Stage Dual Occupancy at Lot 9 Section 6 DP 17606, No. 5 Moss Street, Kingscliff

Minute Number 310

RESOLVED that Development Application DA09/0751 for a two (2) stage dual occupancy at Lot 9 Section 6 DP 17606, No. 5 Moss Street, Kingscliff 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 DA 0.01D, DA 1.01 C, DA 1.02 D, DA1.03 D, DA 2.01 D, DA 2.02 D, DA 2.03 E and DA 2.04 D prepared by Paul Uhlman Architects and dated September and November 2009, except where varied by the conditions of this consent.*

REPLACE CONDITION 1 WITH THE CORRECT PLAN NUMBERS AS FOLLOWS:

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos:**

Stage 1

DA 0.01D, DA 1.01 D, DA 1.02 D, DA1.03 D, DA 2.01 D, DA 2.02 D, DA 2.03 E, DA 2.04 D, DA 3.01 D, DA 4.01 D and DA A.05 D

Stage 2

DA 0.01D, DA 1.01 C, DA 1.02 D, DA1.03 D, DA 2.01 D, DA 2.02D, DA 2.03E, DA 2.04 D, DA 3.01D, DA 4.01D and DA A.05 D

prepared by Paul Uhlman Architects and dated September and November 2009, except where varied by the conditions of this consent.

[GEN0005]

14 [PR-CM] Development Application DA10/0060 for a Boundary Alteration at Lot 1 and 3 DP 868372, No. 2609 Kyogle Road, Kunghur

311

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Development Application DA10/0060 for a boundary alteration at Lot 1, 3 DP 868372, No. 2609 Kyogle Road Kunghur No. 2609 Kyogle Road Kunghur 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 2960BD-A3/1 prepared by NC White & Associates and dated 15/12/2009, 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]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

3. 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]

4. 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.

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

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

Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the Community Land Development Act, Strata Titles Act, Conveyancing Act, or other applicable legislation.

[PSC0835]

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

[PSC0845]

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]

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

[PSC0945]

8. Prior to the issue of a Subdivision Certificate, documentary evidence shall be provided to Council to confirm the extinguishment of the existing Right of Carriageway 10 wide over existing Lot 3 DP868372 benefiting existing Lot 1.

[PSCNS01]

9. The existing accesses to proposed Lots 20 and 21 shall be upgraded to provide a bitumen seal from edge of the existing road carriageway of Kyogle Road to each allotment property boundary, in accordance with Tweed Shire Council's Development Control Plan, Part A5 - Subdivision Manual and Council's "Driveway Access to Property – Part 1 – Design Specification".

[PSCNS02]

10. The proposed Right of Carriageway access to existing Lot 2 DP883113 shall be upgraded to provide a bitumen seal from edge of the existing road carriageway of Kyogle Road to the proposed Lot 21 property boundary, in accordance with Tweed Shire Council's Development Control Plan, Part A5 - Subdivision Manual and Council's "Driveway Access To Property – Part 1 – Design Specification".

[PSCNS03]

The Motion was **Carried**

FOR VOTE - Unanimous

15. **[PR-CM] Development Application D90/0436.05 for an Amendment to Development Consent DA90/0436 for the Erection of a Tavern and Nine (9) Shops at Lot 171 DP 629328, No 28-40 Overall Drive, Pottsville**

This item was dealt with earlier in the meeting - Refer Minute No 303.

- 16 [PR-CM] Preferred Project Report (PPR) Major Project Application No. 08_0034 - Proposed Subdivision at Lots 2 and 3 DP 244652 Urliup Road, Bilambil

PROCEDURAL MOTION

312

Cr K Milne
Cr D Holdom

RESOLVED that Standing Orders be suspended to allow Councillors to informally discuss Item 16 of the Agenda.

The Motion was **Carried**

FOR VOTE - Unanimous

RESUMPTION OF STANDING ORDERS

313

Cr P Youngblutt
Cr D Holdom

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

314

Cr D Holdom
Cr P Youngblutt

PROPOSED that Council endorses the attached submission regarding MP08_0034 Preferred Project Report (PPR) for a residential subdivision at Lots 2 and 3 DP 244652 Urliup, Bilambil and Hogans Roads, Bilambil Village be forwarded to the NSW Department of Planning based on the matters identified in this report.

315

AMENDMENT 1

Cr K Milne
Cr B Longland

PROPOSED that

1. Council writes to the Minister for Planning stating its dissatisfaction with the current Part 3A processes, and calls upon the Minister to take any necessary steps to facilitate more thorough and meaningful processes for Council, its officers and the Tweed community to have input on Part 3A proposals.
2. The 50 metre riparian buffer to be strictly used for environmental purposes and not for any road, footpath, bike track or other purposes. Only local native species to be used for landscaping throughout the site.
3. Further sustainability measures are requested, planning for maximum rainwater tank usage and energy efficiency measures, and concerns in relation to the proposal for air conditioning, double glazing and orientation of the buildings and shade trees to be further considered. Solar panels and solar hot water systems should be mandatory.

The Amendment 1 was **Lost**

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

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

316

AMENDMENT 2

Cr K Milne

Cr B Longland

RESOLVED that

1. Council writes to the Minister for Planning stating its dissatisfaction with the current Part 3A processes, and calls upon the Minister to take any necessary steps to facilitate more thorough and meaningful processes for Council, its officers and the Tweed community to have input on Part 3A proposals.
2. Further sustainability measures are requested, planning for maximum rainwater tank usage and energy efficiency measures, and concerns in relation to the proposal for air conditioning, double glazing and orientation of the buildings and shade trees to be further considered. Solar panels and solar hot water systems should be mandatory.

Amendment 2 was **Carried**

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

AGAINST VOTE - Cr P Youngblutt, Cr D Holdom, Cr W Polglase

Amendment 2 on becoming the Motion was **Carried** - (Minute No **316** refers)

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

AGAINST VOTE - Cr P Youngblutt, Cr D Holdom, Cr W Polglase

17 [PR-CM] Terranora Area E - Progress Report on Planning Processes

317

**Cr K Skinner
Cr W Polglase**

RESOLVED that:

1. The report on Terranora Area E – Progress Report on Planning Processes be received and noted; and
2. Council endorses the General Manager to write to the Director-General of the NSW Department of Planning requesting a deferral of any further consideration of the current Part 3A Major Projects application for a 300 lot residential subdivision on the eastern-most section of the Terranora Area E site, until the Council and the applicants, Metricon Queensland Pty Ltd have satisfactorily resolved the details of a new Draft Development Control Plan and Draft Section 94 Plan for the entire Area E site.
3. Council writes to the Minister for Planning stating its dissatisfaction with the current Part 3A processes, and calls upon the Minister to take any necessary steps to facilitate more thorough and meaningful processes for Council, its officers and the Tweed community to have input on Part 3A proposals.

The Motion was **Carried**

FOR VOTE - Unanimous

18 [PR-CM] Tweed Local Environmental Plan 2000 - Amendment No. 69 - Seabreeze Estate 'Stage 2'

318

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:

1. Council requests the NSW Department of Planning to issue of a section 65 Certificate under the Environmental Planning and Assessment Act 1979, to enable the public exhibition of the draft Tweed Local Environmental Plan 2000 – Amendment No. 69 – Seabreeze Estate, Pottsville (Stage 2), which seeks to rezone the area identified as Lots 1145 and 1147 DP 1115395, Lots 7 and 10 DP 1137819, Lot 740 DP 1072580 and Lot 138 DP 1045822 from 1(a) Rural to 2(a) Low Density Residential and 7(l) Environmental Protection (Habitat) and an additional clause being Clause 53E Specific Provisions for Seabreeze Estate – Stage 2.

2. The draft Tweed Local Environmental Plan 2000 – Amendment No. 69 – Seabreeze Estate, Pottsville (Stage 2), be publicly exhibited in accordance with section 66 of the *Environmental Planning Assessment Act 1979*, for a minimum period of 30 days.
3. Following public exhibition a further report addressing all public submissions is to be submitted to Council.

The Motion was **Carried**

FOR VOTE - Unanimous

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

319

**Cr D Holdom
Cr P Youngblutt**

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

The Motion was **Carried**

FOR VOTE - Unanimous



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