



**TWEED**  
SHIRE COUNCIL

**Mayor:** Cr B Longland (Mayor)

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

# **Minutes**

## **Planning and Regulation Reports**

### **Ordinary Council Meeting**

### **Tuesday 15 November 2011**

held at Murwillumbah Cultural and Civic Centre  
commencing at 3.30pm

## 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.

## **IN ATTENDANCE**

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

Also present were Mr Mike Rayner (General Manager), Mr Troy Green (Director Technology and Corporate Services), Mr Patrick Knight (Director Engineering and Operations), Mr Vince Connell (Director Planning and Regulation), Mr David Oxenham (Director Community and Natural Resources), Mr Neil Baldwin (Manager Corporate Governance/Public Officer), Mrs Meredith Smith and Mrs Kerrie McConnell (Minutes Secretary).

## **ORDINARY ITEMS FOR CONSIDERATION**

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

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

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

**1**

**Cr P Youngblutt  
Cr D Holdom**

**RESOLVED** that Council notes the October 2011 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

***FOR VOTE - Unanimous***

#### **9 [PR-CM] Development Application DA11/0164 for alterations, additions and part demolition of three flats to construct a three storey dwelling at Lot 2 DP557216 26 Tweed Coast Road Hastings Point**

**2**

**Cr P Youngblutt  
Cr D Holdom**

**RESOLVED** that Development Application DA11/0164 for alterations, additions and part demolition of three flats to construct a three storey dwelling at Lot 2 DP557216 26 Tweed Coast Road, Hastings Point be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos Johnston EP:01 Issue V, Johnston DA:01 Issue V, Johnston DA:02 Issue V, Johnston DA:03 Issue V, Johnston DA:04 Issue V, Johnston DA:04A Issue V and Johnston DA:05 Issue V prepared by Brian Kenny and dated 29 August 2011, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

3. The 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]]

4. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate. The footing design is to incorporate design principles as detailed in the structural design intent certificate by Mark Traucnieks consulting Engineers dated 8 March 2011 to address potential coastal erosion influences.

[PCC0945]

5. The existing brick barbeque on the foreshore east area of the site is to be removed.

[GENNS01]

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

6. 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]

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

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under S68 of the Local Government Act.

- a) Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
- b) Where Council is requested to issue a construction certificate for civil works

associated with a subdivision consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

[PCC1145]

8. 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]

9. Dilapidation reports detailing the current general condition including the structural condition of the adjoining buildings/sites, infrastructure and driveway are to be prepared and certified by a suitably qualified and experienced structural engineer. The reports are to be submitted to Council prior to commencement of ANY works on the site.

[PCW0775]

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

[PCW0995]

11. Prior to commencement of any work on the site a construction management plan is to be submitted to and approved by the Principal Certifying Authority. The plan is to detail how the construction will manage deliveries, general construction vehicle movement, concrete deliveries, traffic management, and in particular the minimisation of disruption to the residential units that share the driveway access.

[PCWNS01]

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

12. 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]

13. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:
- (a) a standard flushing toilet connected to a public sewer, or
  - (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

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

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

[PCW0255]

15. Prior to 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. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. Note All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the Principal Certifying Authority prior to commencement of building works.

[PCW1005]

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

on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

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

[PCW0985]

18. 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]

19. During construction the Principal Certifying Authority is to be provided with a Registered Surveyors' floor level certificate at each floor platform stage and when the roof framework is in place, to confirm that the height of the building is proceeding in accordance with the approved plans.

[DURNS01]

20. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake the works.

[DUR0675]

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

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]

22. Construction and management of the building shall comply with Section 1.0 of the Bushfire Threat Assessment Report by BCA Check Pty Ltd dated 15th February 2011 and all boundary fences are to be constructed of non-combustible materials.

[DURNS02]

### **DURING CONSTRUCTION**

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

[DUR2705]

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

Please note timber retaining walls are not permitted.

[DUR0835]

25. 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]

26. 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]

27. 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]

28. 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]

29. 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]

30. 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]

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. 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]

33. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of buildings with direct line of sight to the proposed building.

[DUR0245]

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

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

[DUR2485]

35. Plumbing

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

[DUR2495]

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

[DUR1945]

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

[DUR2515]

38. 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]

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

[DUR0445]

40. 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]

41. 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]

42. 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]

43. Upon completion of all works on the site and prior to the issue of an Occupation (including interim) / Subdivision Certificate, a further dilapidation report is to be prepared and certified by a suitably qualified and experienced structural engineer detailing the current general condition including the structural condition of the adjoining buildings / sites, infrastructure and roads. The dilapidation reports shall take into consideration the findings of the original reports and provide to Council the written acceptance of the adjoining / adjacent owners confirming agreement that no damages have occurred / repairs carried out are acceptable.

[POC0825]

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

44. 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]

45. 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]

46. 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]

## **USE**

47. 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]

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

[USE0505]

## **SUSPENSION OF STANDING ORDERS**

**3**

**Cr B Longland**

**Cr D Holdom**

**RESOLVED** that Standing Orders be suspended to deal with Item 9 in Committee of the Whole, as per Clause 9.2 of the Code of Meeting Practice.

The Motion was **Carried**

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

***AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr K Skinner***

## **RESUMPTION OF STANDING ORDERS**

**4**

**Cr K Skinner**

**Cr J van Lieshout**

**RESOLVED** that Standing Orders be resumed.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**AMENDMENT**

5

**Cr K Milne**  
**Cr B Longland**

**PROPOSED** that this item be deferred for consideration at the December Council meeting.

The Amendment was **Lost**

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

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

The Motion was **Carried** - (Minute No 653 refers)

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

**AGAINST VOTE - Cr K Milne, Cr J van Lieshout, Cr B Longland**

**10 [PR-CM] Development Application DA11/0099 for a Detached Dual Occupancy at Lot 1 DP 777228; No. 61 Bimbadeen Avenue, Banora Point**

6

**Cr D Holdom**  
**Cr K Milne**

**RESOLVED** that Development Application DA11/0099 for a detached dual occupancy at Lot 1 DP 777228; No. 61 Bimbadeen Avenue, Banora Point be refused for the following reasons:

1. The proposed development proposes excessive levels of cut and excessive height for retaining walls.
2. The application fails to provide adequate usable ground floor external living areas or outdoor spaces that are sufficiently integrated to the houses to facilitate private outdoor recreational and relaxation space.
3. The application fails to adequately comply with:
  - Tweed Local Environmental Plan 2000; and
  - Tweed Development Control Plan Section A1 Part B.
4. The development is not considered to be consistent with the general public interest as the development fails to uphold the integrity of the approved planning instruments for the Shire.

**AMENDMENT**

7

**Cr W Polglase  
Cr P Youngblutt**

**PROPOSED** that Council grants in principle support for the proposal, and that the officers bring back a further report to Council with possible conditions of development consent.

The Amendment was **Lost**

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

#### **PROCEDURAL MOTION**

**8**

**Cr D Holdom  
Cr J van Lieshout**

**RESOLVED** that the motion be put.

The Motion was **Carried**

**FOR VOTE - Unanimous**

The Motion was **Carried** - (Minute No 657 refers)

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

**11 [PR-CM] Class 1 Appeal in Relation to Amendment (DA10/0160.01) to Development Consent DA10/0160 for the Change of Use from Motel to Combined Motel and Permanent Residential Apartments at Lot 9 DP 1094335; No. 77 Tamarind Avenue, Bogangar**

**9**

**Cr K Skinner  
Cr D Holdom**

**RESOLVED** that the report on the Class 1 Appeal in Relation to Amendment (DA10/0160.01) to Development Consent DA10/0160 for the Change of Use from Motel to Combined Motel and Permanent Residential Apartments at Lot 9 DP 1094335; No. 77 Tamarind Avenue, Bogangar be received and noted.

The Motion was **Carried**

**FOR VOTE - Voting - Unanimous**

#### **LATE ITEMS**

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10

Cr D Holdom  
Cr W Polglase

**RESOLVED** that Items a11, b11 and c11 being Addendum items be dealt with and they be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**a11 [PR-CM] Class 1 Appeals - Section 96 Applications DA09/0344.05 and DA09/0290.06 refused under delegated authority relating to the original development consents for the Construction of New Two Storey Dwelling Houses at Lot 11 DP 24564, No. 4 Creek Street**

Cr P Youngblutt declared a perceived non-significant, non-pecuniary Interest in this item, left the Chamber at 04:51 PM and took no part in the discussion or voting. The nature of the interest is that his brother lives and works on the Creek Street, Hasting Point property.

11

Cr D Holdom  
Cr K Milne

**RESOLVED** that Council, in respect of the Class 1 Appeals lodged in the NSW Land and Environment Court (LEC) for the respective Section 96 applications DA09/0344.05 and DA09/0290.06, refused under delegated authority relating to the original development consents for the Construction of New Two Storey Dwelling Houses at Lot 11 DP 24564, No. 4 Creek Street and Lot 10 DP 24564, No. 6 Creek Street, Hastings Point engages its solicitors to seek to continue to defend these appeals but delegate to the General Manager the power to either defend or resolve the matter as considered appropriate in the light of further information provided by the Applicant and the expert evidence prepared in the matter.

The Motion was **Carried**

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

Cr P Youngblutt has returned from temporary absence at 04:53 PM

**b11 [PR-CM] Class 1 Appeal - Section 96 Application D97/0175.02 for an Amendment to Development Consent D97/0175 for the Establishment of a Brothel/Escort Agency at Lot 6 DP 249122, No. 17 Morton Street, Chinderah**

12

Cr D Holdom  
Cr K Skinner

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**RESOLVED** that Council in respect of its decision to refuse D97/0175.02 for the extension of hours and proposed internal building works to the brothel/escort agency at Lot 6 DP249122, No. 17 Morton Street, Chinderah engages its solicitors to negotiate Consent Orders for the brothel/escort agency.

The Motion was **Carried**

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

**c11 [PR-CM] Development Application DA11/0014 for a Community Health Centre at Lots 534, 535 DP 48641 No. 10B Elizabeth Street, Pottsville**

**13**

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

**RESOLVED** that:

1. Council removes the standard conditions in regard to Section 94 and Section 64 contributions as requested by the Crown based on the NSW Department of Planning and Department of Land and Water Conservation circulars and therefore;
2. Council approves Development Application DA11/0014 for a Community Health Centre at Lots 534, 535 DP 48641 No. 10B Elizabeth Street, Pottsville subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans as listed in the table below, except where varied by the conditions of this consent.  
[GEN0005]
2. 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]
3. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.  
[GEN0265]
4. DELETED  
[GENNS01]
5. Only waste classified as "general waste" under the NSW waste classifications guidelines is to be disposed in the general waste collection service. No clinical waste or sharps are to be disposed of in the general waste bins at any time.

6. Suitable road access shall be maintained so as to ensure waste service vehicles may traverse in a forward motion while entering and exiting the property.
7. Servicing of the waste and recycling bins shall be carried out so as not to cause a nuisance to occupants of adjoining properties.
8. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.

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

9. Appropriate radiation shielding shall be installed within all areas where it is proposed to use ionising radiation apparatus. Such shielding shall comply with the requirements of the NSW Radiation Control Act 1990, the NSW Radiation Control Regulation 2003 and any Radiation Guidelines under such legislation that are relevant to the operation of the business. Any such shielding shall be installed by an appropriately qualified and experienced person. Appropriate certification shall be provided to Council from the qualified person certifying that the installation of the radiation shielding complies with all relevant provisions of the legislation. Such certification shall be provided to the satisfaction of Council's General Manager or his delegate prior to use of the building.

[GENNS02]

10. DELETED
11. DELETED
12. DELETED

13. As an offset for the loss of the large Forest Red Gum and Scribbly Gums on the site, the applicant must provide improved koala habitat connectivity to reduce the risk of road strike at the intersection of Pottsville Wetland and Pottsville Environment Park. The improved habitat connectivity will be through either installation of a road culvert or a safe road crossing point. A one off contribution to the value of \$50,000 shall be paid to Tweed Shire Council prior to occupation or use of the building and incorporated into any future road works undertaken by Council at that location, where possible.

If road culverts are provided, there shall be two 1.2m X 1.2m culverts to replace the existing three 900mm pipes, with one culvert fitted with a bench that remains dry, in addition to minor fencing and additional planting, linking the two important habitat areas.

14. No trees outside the development footprint are to be removed without the prior consent of Council.
15. The Applicant will submit a *Tree Protection and Habitat Restoration Plan* to Director Planning and Regulation for approval, detailing measures to protect retained native trees on site during and after construction, including use of porous paving where car parks encroach on tree root zones. The plan is to be received by Council within 60 days of the date of this consent. The plan will also detail and schedule the planting of additional local native trees and



other local native species in the south-east corner of the site with a maintenance period not less than five years and the gradual replacement of exotic and non-local species with local native species along the eastern boundary.

16. Works must accord with the approved Tree Protection and Habitat Restoration Plan at all times.

[GENNS05]

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

17. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

18. 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.

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]

19. 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]

20. Prior to the topsoil stripping and excavation work on site the applicant is required to make adequate arrangements to ensure a representative of the Tweed Byron Aboriginal Council is present during topsoil stripping prior to excavation work.

21. A Traffic Control Plan in accordance with AS1742 and the latest version of the RTA publication "Traffic Control at Work Sites" shall be prepared by an RTA accredited person and shall be submitted prior to commencement of work. Safe public access shall be provided at all times.

[PCWNS01]

22. Erosion and Sediment Control shall be provided in accordance with the following:

- (a) Detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its

Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

23. Prior to commencement of works, the applicant is to submit an acid sulfate soil assessment and management plan prepared in accordance with the NSW ASSMAC - Acid Sulfate Soil Manual 1998 to the satisfaction of Council's General Manager or his delegate.
24. Prior to commencement of works, the applicant is to submit a noise impact report to the satisfaction of Council's General manger or his delegate. The report shall include but not be limited to the assessment of noise impacts from construction noise, traffic movements, parking and mechanical plant, and include appropriate mitigation measures.
25. Prior to commencement of works, a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height should be sought. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and be supported by Geotechnical assessment of the founding material.
26. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:
  - (a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.
  - (b) Right of carriageway and shared car park benefiting Council (as per DA10/0650). The Section 88B Instrument is to contain a provision enabling the right of way and car parking to be revoked, varied or modified only with the consent of Council.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway and carpark shall make provision for maintenance of the right of carriageway and carpark 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.

[PCWNS02]

27. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:
  - (a) Vehicular access to the proposed ambulance bay and carpark
  - (b) A concrete footpath 1.2m in width, 100mm thick and reinforced with F72 mesh is to be constructed on a compacted base along the entire frontage of the site works on Lots 534 & 535 DP 48641, Elizabeth Street, Pottsville.

- (c) Construction of upright kerb and guttering, and road widening to accommodate an 11m wide pavement width from kerb to kerb. The road is to be upgraded in accordance with Council's preliminary road reconstruction design drawings for Elizabeth Street prepared by Council's design unit. The works are required to be provided for the full frontage of the site works on Lots 534 & 535 DP 48641, Elizabeth Street Pottsville.
- (d) In regards to (b) and (c) above a monetary contribution to Tweed Shire Council can be negotiated to the satisfaction of the Director of Engineering and Operations to enable Council to undertake these works.

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

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

28. Permanent stormwater quality treatment shall be provided in accordance with the following:

- (a) Detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.
- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management.
- (d) Specific Requirements to be detailed include:
  - (i) The construction of any retaining wall, cut/fill batter or site regrading must at no time result in additional ponding occurring within neighbouring properties.
  - (ii) Runoff from all hardstand areas, (including car parking and hardstand landscaping areas and excluding roof areas) must be treated to remove oil and sediment contaminants prior to discharge to the public realm. All permanent stormwater treatment devices must be sized according to Council's Development Design Specification D7 – Stormwater Quality, Section D7.12.

29. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to commencement of works. The engineering details are to demonstrate that the construction of any retaining wall, cut/fill batter or site regrading does not result in additional ponding within neighbouring properties.

[PCWNS03]

### **DURING CONSTRUCTION**

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

[DUR0005]

31. If during construction works any Aboriginal object or relic is disturbed or uncovered, works are to cease and the Department of Environment, Climate Change and Water are to be notified immediately, in accordance with the provisions of the National Parks and Wildlife Act 1974.

[DUR0025]

32. 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]

33. 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.

[DUR0375]

34. DELETED

[DUR0815]

35. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council General Manager or his delegate.

[DUR0985]

36. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the commencement of use.

[DUR0995]

37. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All

necessary precautions, covering and protection shall be taken to minimise impact from: -

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

[DUR1005]

38. Landscaping of the site shall be carried out and maintained in accordance with the submitted/approved landscaping plans (Drawings 708-LD01, 708-LD02 and 708-PP01) having regard to the approved Tree Protection and Habitat Restoration Plan.

[DUR1045]

39. All works shall be carried out in accordance with the approved Acid Sulfate Soils Investigation and Management Plan.

[DUR1065]

40. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

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

[DUR1875]

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

[DUR1925]

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

[DUR2445]

44. 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]

45. 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]

46. 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]

47. 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]

48. 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]

49. Prior to the commencement of any road construction upgrade works for the road widening; pavement design detail, including reports from a Registered NATA Consultant shall be submitted to Council for approval. The pavement is to be designed in accordance with Council's Development Design Specification D2.

[DURNS01]

50. A recognised and experienced fauna spotter/catcher must be present during any tree removal on the site.

[DURNS02]

**USE**

51. 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]

52. 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]

53. Hours of operation of the business are restricted to the following hours:
- \* 8.30am to 5.30pm - Mondays to Fridays
  - \* 'Community Information' and/or 'Public Health' meetings are permitted outside of these times within the facility.
  - \* No operations are to be carried out on weekends or Public Holidays
  - \* All deliveries and pickups relating to the business are to occur within the approved hours

[USE0185]

54. All externally mounted artificial lighting, including security lighting, is to be shielded in line with Occupational Health and Safety Standards so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.

[USE0225]

55. Clinical wastes shall be separated from the general waste stream and disposed via a clinical waste collection and disposal service. Suitable arrangements shall be made for the collection and disposal of clinical wastes to the satisfaction of the General Manager or his delegate.

[USE0995]

56. A sharps container shall be provided for the storage of used disposable needles in any skin penetration process. The sharps container shall be collected by an authorised medical waste collection service to the satisfaction of Council's General Manager or his delegate.

[USE1025]

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

[USE1035]

58. Prior to the use of any ionising or non-ionising radiation apparatus and/or any radioactive substance the applicant shall obtain a licence under the relevant provisions of the Radiation Control Act 1990 for the appropriate authority. The owner of any radiation apparatus or sealed source device shall also ensure that where required under the provisions of the Radiation Control Act 1990 that such device or apparatus is registered with the appropriate authority.

[USE1100]

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

60. DELETED

61. Prior to use, the applicant shall produce a copy of the “satisfactory inspection report” issued by Council for all s68h2 permanent stormwater quality control devices.

62. Prior to the occupation or use of any building, a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[USENS01]

63. Prior to use, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

64. Prior to use, the applicant shall produce a copy of the “satisfactory inspection report” issued by Council for all works required under Section 138 of the Roads Act 1993.

[USENS03]

The Motion was **Carried**

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

***AGAINST VOTE - Cr K Milne***

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