



TWEED
SHIRE COUNCIL

Mayor: Cr B Longland (Mayor)

Councillors: M Armstrong (Deputy Mayor)
G Bagnall
C Byrne
K Milne
W Polglase
P Youngblutt

Minutes

Ordinary Council Meeting Thursday 14 February 2013

held at Murwillumbah Cultural and Civic Centre
commencing at 6.00pm

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 6.06pm.

IN ATTENDANCE

Cr B Longland (Mayor), Cr M Armstrong (Deputy Mayor), Cr G Bagnall, Cr C Byrne, Cr K Milne, Cr W Polglase and Cr P Youngblutt.

Also present were Mr David Keenan (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) and Mrs Kerrie McConnell (Minutes Secretary).

ABORIGINAL STATEMENT

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

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

PRAYER

The meeting opened with a Prayer by Council's Chaplain, Pastor Rob Stuttle:

"Psalm 93 New King James Version (NKJV)

The Eternal Reign of the LORD

- 1 *The LORD reigns, He is clothed with majesty;
The LORD is clothed, He has girded Himself with strength.
Surely the world is established, so that it cannot be moved.*
- 2 *Your throne is established from of old;
You are from everlasting.*
- 3 *The floods have lifted up, O LORD,
The floods have lifted up their voice;
The floods lift up their waves.*
- 4 *The LORD on high is mightier
Than the noise of many waters,
Than the mighty waves of the sea.*
- 5 *Your testimonies are very sure;
Holiness adorns Your house,
O LORD, forever.*

Prayer

O Lord we come to you with heavy hearts as we are mindful of those who have suffered the loss of friends and possessions in the recent storms and flooding that swept our Shire.

We know that your heart of compassion reaches out to all those in need as you did when you walked on this earth over 2000 years ago. And as the psalmist said through it all you are Lord, you are mighty, you are the God of Ages and that will not change.

As this council presides over the matters at hand, we honour you as almighty God and ask that you give direction to every councillor as they make decisions that will impact on this Shire.

In Jesus name we Pray,

Amen"

CONFIRMATION OF MINUTES

1 [CONMIN] Confirmation of the Minutes of the Ordinary and Council Meetings held Thursday 24 January 2013

63

**Cr M Armstrong
Cr P Youngblutt**

RESOLVED that the Minutes of the Ordinary and Confidential Council Meetings held Thursday 24 January 2013 be adopted as a true and accurate record of proceedings of that meeting.

The Motion was **Carried**

FOR VOTE - Unanimous

2 [CONMIN] Confirmation of the Minutes of the Extraordinary Council Meeting held Friday 1 February 2013

64

**Cr M Armstrong
Cr P Youngblutt**

RESOLVED that the Minutes of the Extraordinary Council Meeting held Friday 1 February 2013 be adopted as a true and accurate record of proceedings of that meeting.

The Motion was **Carried**

FOR VOTE - Unanimous

APOLOGIES

Nil.

DISCLOSURE OF INTEREST

Cr C Byrne declared a pecuniary interest in Item 35 [TCS-CM] Legal Services Register as at 31 December 2012. The nature of the interest is that Cr Byrne is a Director of a company that received legal costs from Council.

General Manager, **David Keenan** declared a non-pecuniary, non-significant interest in Item 9 [PR-CM] Development Application DA12/0243 for a Three Lot Subdivision - 2 Residential Lots and 1 Residue Lot at Lot 58 DP 1083567 Collins Lane, Casuarina. The nature of the interest is that David Keenan is a resident of Casuarina.

ITEMS TO BE MOVED FROM ORDINARY TO CONFIDENTIAL - CONFIDENTIAL TO ORDINARY

Nil.

SCHEDULE OF OUTSTANDING RESOLUTIONS

3 [SOR] Schedule of Outstanding Resolutions

The Schedule of Outstanding Resolutions was received and noted.

MAYORAL MINUTE

4 [MM-CM] Mayoral Minute - Period from 5 January to 30 January 2013

65

Cr B Longland

RESOLVED that:

1. The Mayoral Minute for the period from 5 January to 30 January 2013 be received and noted.
2. The attendance of Councillors at the following nominated Conferences be authorised:
 - Cr K Milne to attend the National Floodplain Management Conference - Twin Towns Resort, Tweed Heads to be held 28 to 31 May 2013.
3. Cr G Bagnall tabled the following petition:

- Road Surface Maintenance Request - Murwillumbah Street and Wentworth Street submitted by 64 residents of Murwillumbah Street, Murwillumbah.

The Motion was **Carried**

FOR VOTE - Unanimous

ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

Nil.

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

66

Cr K Milne
Cr M Armstrong

RESOLVED that Council notes the January 2013 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

6 [PR-CM] Earthworks at Lot 1 DP 387105 Clothiers Creek Road, Nunderi

67

Cr P Youngblutt
Cr M Armstrong

RESOLVED that Council advises the landowner of Lot 1 DP387105 Clothiers Creek Road, Nunderi to consult with the relevant Government Agencies regarding 'best practice' for cultivation on steep slopes.

AMENDMENT

68

**Cr K Milne
Cr G Bagnall**

PROPOSED that this item be deferred for consideration until issues with site management are resolved/clarified.

The Amendment was **Lost**

FOR VOTE - Cr K Milne, Cr G Bagnall

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr B Longland

The Motion was **Carried** (Minute No 67 refers)

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr G Bagnall, Cr B Longland

AGAINST VOTE - Cr K Milne

7 [PR-CM] Illegal Dwelling House on a Parcel of Land with no Dwelling Entitlement

69

**Cr W Polglase
Cr C Byrne**

RESOLVED that in respect of premises Lot 2 DP 614306 Slash Pine Road, Glengarrie:

1. Building Certificate BC12/0108 for the dwelling Class 1a be refused as the subject land does not have dwelling entitlement;
2. Notice be served upon the owners requiring that they submit within 30 days for approval to Council, a statement of works proposed to render the dwelling house uninhabitable and that such works are carried out within 60 days from the date of this Notice;
3. Should arrangements satisfactory to Council not eventuate during this period, the matter be referred to Council's Solicitors to initiate appropriate action in the Land and Environment Court to ensure compliance.

AMENDMENT

70

**Cr K Milne
Cr G Bagnall**

PROPOSED that Council defers the report and write to the landowner to advise of the proposed outcome and bring back a report to a future council meeting.

The Amendment was **Lost**

FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr B Longland

The Motion was **Carried** (Minute No 69 refers)

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr B Longland

AGAINST VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall

8 [PR-CM] Tweed Development Control Plan Section B15 - Seabreeze Estate, Pottsville

71

**Cr C Byrne
Cr W Polglase**

RESOLVED that Council:

1. Receives and notes the further advice received from NSW Department of Education and Communities that the site is not required for departmental education purposes at this time; and
2. Rejects the proponent's request to amend the Development Control Plan thereby retaining the existing Section B15 of the Tweed Development Control Plan; and
3. Reviews the education infrastructure strategies and controls contained within Tweed Development Control Plan, Section B21 Pottsville Locality Based Development Code and this be undertaken as part of the Planning Reform Unit's general maintenance program endorsed in its Work Program 2012-2015, and
4. Notes the earmarking of the 'Potential Future School Site' in the existing Section B15 to be reviewed, if requested, no earlier than 2018.

The Motion was **Carried**

FOR VOTE - Unanimous

9 [PR-CM] Development Application DA12/0243 for a Three Lot Subdivision - 2 Residential Lots and 1 Residue Lot at Lot 58 DP 1083567 Collins Lane, Casuarina

General Manager, **David Keenan** declared a non-significant, non-pecuniary interest in this item, left the Chamber at 06:39 PM and took no part in the discussion. The nature of the interest is that David Keenan is a resident of Casuarina.

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Cr M Armstrong

Cr C Byrne

RESOLVED that Development Application DA12/0243 for a three lot subdivision - 2 residential lots and 1 residue lot at Lot 58 DP 1083567 Collins Lane, Casuarina 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 Plan Nos, except where varied by the conditions of this consent.

- Staging Plan - Stage 1 Rev.2 by Planit dated 06/12.

[GEN0005]

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

[GEN0125]

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

[GEN0135]

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

Should adjustments be required to the sewer manhole, then application shall be made to Council's Community and Natural Resources Division for approval of such works.

[GEN0155]

5. No residential, associated buildings or structures are permitted on land zoned 7(f) Environmental Protection (Coastal Lands).

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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.

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.

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5 prior to the issue of a construction certificate. 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 7.2 (currently 5.4c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.6

[PCC0225/PSC0185]

7. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works as set out in Council's fees and charges at the time of payment.

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Subdivision/Occupation Certificate is issued.

[PCC0275]

8. 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]

9. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, description of material, proposed use of material, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for the approval of the General Manager or his delegate.

[PCC0465]

10. 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.

[PCC0485]

11. 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 to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.

[PCC0865]

12. The proponent shall submit plans and specifications with an application for construction certificate for the following civil works and any associated subsurface overland flow and piped stormwater drainage structures designed in accordance with Councils Development Design and Construction specifications.

OTHER

- (a) Provision of water connections for Lots 1 and 2, generally as per "Proposed Water Reticulation Layout" plan by Opus No. TW_N-T2013.00 sheet 4 Rev. 3 dated 16.9.12 - as pertaining to Lots 1 and 2 only.
- (b) Construction of sewer infrastructure to service Lots 1 and 2 generally as per "Proposed Sewer Reticulation Layout" plan by Opus No. TW_N-T2013.00 sheet 3 Rev.3 dated 16.9.12 - subject to relocation of the sewer main to avoid future Lot 3.

Note: sewer main construction will need to be of sufficient depth to enable internal house service lines to fall to the connection point, being against the fall of the land: site filling is necessary as per the following requirement.

- (c) Site filling to facilitate fall to the Collins Lane road frontage for Lots 1 and 2 - as well as future Lot 3. This is to enable stormwater infiltration surcharges to gravitate to the street.
- (d) Turfing of the footpath area of Collins Lane.

[PCC0875]

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

- (a) copies of compliance certificates relied upon
- (b) four copies of detailed engineering plans and specifications, *prepared in accordance with Development Design Specification D13 - particularly Section D13.09*. 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), *as well as details and locations of any significant electrical servicing infrastructure - such as transformers and substations*

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]

14. 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 Section 68 of the Local Government Act.

- a) Applications for these works must be submitted on Council's standard Section 68 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 Local Government Act will then NOT be required.

[PCC1145]

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

- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

PRIOR TO COMMENCEMENT OF WORK

16. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

17. Prior to the commencement of works, the applicant shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with either:-
- (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
 - (b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
 - (c) WorkCover Regulations 2000

[PCW0025]

18. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of the fill, nature of material, proposed use of material and confirmation that further blending, crushing or processing is not to be undertaken shall be submitted to the satisfaction of the General Manager or his delegate.

Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to the issue of the Subdivision Certificate.

[PCW0375]

19. Civil work in accordance with a development consent must not be commenced until:
- (a) A Construction Certificate for the civil work has been issued in accordance with Councils Development Construction Specification C101 by:
 - (i) The consent authority, or
 - (ii) An accredited certifier, and
 - (b) The person having the benefit of the development consent:
 - (i) Has appointed a principal certifying authority,
 - (ii) Has appointed a Subdivision Works Accredited Certifier (SWAC) to certify the compliance of the completed works. The SWAC must be accredited in accordance with Tweed Shire Council DCP Part A5 - Subdivision Manual, Appendix C with accreditation in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the SWAC shall possess accreditation in the following categories:
 - C4: Accredited Certifier - Stormwater management facilities construction compliance
 - C6: Accredited Certifier - Subdivision road and drainage construction compliance

The SWAC shall provide documentary evidence to Council demonstrating current accreditation with the Building Professionals Board prior to commencement of works, and

 - (iii) Has notified the consent authority and the council (if the council is not the consent authority) of the appointment,
 - (iv) A sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction

Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and

- (c) The person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the civil work.

Note: For subdivisions creating 5 new allotments or less, OR the value of new public infrastructure is less than \$30,000, then the SWAC may be substituted for an Institute of Engineers Australia Chartered Professional Engineer (Civil College) with National Professional Engineers Register (NPER) registration.

[PCW0815]

20. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.

[PCW0835]

21. 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. These measures are to be in accordance with any erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

[PCW0985]

DURING CONSTRUCTION

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

[DUR0005]

23. 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]

24. 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]

25. All lots must be graded to prevent the ponding of surface water and be adequately vegetated to prevent erosion from wind and/or water to the satisfaction of the General Manager or his delegate.

[DUR0745]

26. During filling operations,

- No filling is to be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.
- All fill and cut batters shall be contained wholly within the subject land.
- 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 and to the satisfaction of the Principal Certifying Authority.

and upon completion,

- All topsoil to be respread and the site to be grassed and landscaped including battered areas.

[DUR0755]

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

The earthworks shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to the Principal Certifying Authority upon completion.

[DUR0795]

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. 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]

30. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate.

[DUR0995]

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. 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]

33. 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]

34. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, Appendix D. Inspection fees are based on the rates contained in Council's current Fees and Charges:

Water Reticulation, Sewer Reticulation, Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures
- (g) Drainage channels
- (h) Final inspection - on maintenance
- (i) Off maintenance

Council's role is limited to the above mandatory inspections and does NOT include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

The fee for the abovementioned inspections shall be invoiced upon completion of all civil works, and subject to the submission of an application for a 'Subdivision Works Compliance Certificate'.

[DUR1895]

35. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

36. The works are to be completed in accordance with Tweed Shire Councils Development Control Plan, Part A5 - Subdivision Manual and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.

[DUR2025]

37. 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]

38. No acid sulfate soils to be disturbed without the prior written approval of Council.

[DURNS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

39. Prior to issue of a subdivision certificate, all works/actions/inspections etc required by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[PSC0005]

40. 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 Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision 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: 2 ET @ \$12150 per ET \$24,300

South Kingscliff Water Levy: 2 ET @ 282 per ET \$564

Sewer Kingscliff: 2 ET @ \$5838 per ET \$11,676

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]

41. Section 94 Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

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

(a) Tweed Road Contribution Plan:

13 Trips @ \$1155 per Trips \$15,015

(\$1145 base rate + \$10 indexation)

S94 Plan No. 4

Sector7_4

LCA4 - Casuarina: \$2,197

13 trips at \$169 per trip

(\$168 base rate + \$1 indexation)

(b) Shirewide Library Facilities:

2 ET @ \$816 per ET \$1,632

(\$792 base rate + \$24 indexation)

S94 Plan No. 11

(c) Bus Shelters:

2 ET @ \$62 per ET \$124

(\$60 base rate + \$2 indexation)

S94 Plan No. 12

(d) Eviron Cemetery:

2 ET @ \$121 per ET \$242

(\$101 base rate + \$20 indexation)

S94 Plan No. 13

(e) Extensions to Council Administration Offices
& Technical Support Facilities

2 ET @ \$1812.62 per ET \$3,625.24

(\$1759.9 base rate + \$52.72 indexation)

S94 Plan No. 18

(f) Casuarina Beach/Kings Forest Community Facilities:

- 2 ET @ \$2203 per ET \$4,406
(\$2153 base rate + \$50 indexation)
S94 Plan No. 19
- (g) Casuarina Beach/Kings Forest Open Space:
2 ET @ \$1245 per ET \$2,490
(\$717 base rate + \$528 indexation)
S94 Plan No. 19
- (h) Cycleways:
2 ET @ \$460 per ET \$920
(\$447 base rate + \$13 indexation)
S94 Plan No. 22
- (i) Regional Open Space (Casual)
2 ET @ \$1064 per ET \$2,128
(\$1031 base rate + \$33 indexation)
S94 Plan No. 26
- (j) Regional Open Space (Structured):
2 ET @ \$3730 per ET \$7,460
(\$3619 base rate + \$111 indexation)
S94 Plan No. 26

[PCC0215/PSC0175]

42. Section 94 Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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.

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5 prior to the issue of the subdivision certificate. 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:

\$Con_{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)

\$Unit the unit cost attributed to maintaining a road as set out in Section 7.2
(currently 5.4c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.6

[PSC0185]

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

The bond shall be based on 5% of the value of the public infrastructure works approved under Section 138 of the Roads Act and Section 68 of the Local Government Act (as set out in Councils Fees and Charges current at the time of payment), which will be held by Council for a period of 6 months from the date on which the Occupation Certificate is issued.

It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

44. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[PSC0725]

45. Prior to the issue of a Subdivision Certificate, Work as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design Specification, D13 - Engineering Plans.

The plans are to be endorsed by a Registered Surveyor OR a Consulting Engineer Certifying that:

(a) All drainage lines, sewer lines, services and structures are wholly contained within the relevant easement created by the subdivision;

(b) The plans accurately reflect the Work as Executed.

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed (WAX) plans.

[PSC0735]

46. 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]

47. Prior to the issue of the Subdivision Certificate, certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning And Design (BPAD)

certified practitioner, must be submitted to the PCA, confirming that the subject development complies with the Rural Fire Service's General Terms of Approval imposed under Section 100B of the Rural Fires Act 1997 on the consent.

[PSC0830]

48. Prior to the issue of the Subdivision Certificate, certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning And Design (BPAD) certified practitioner, must be submitted to the PCA, confirming that the subject development complies with the Rural Fire Service's General Terms of Approval imposed under Section 100B of the Rural Fires Act 1997 on the consent.

[PSC0830]

49. The creation of easements for services, rights of carriageway and restrictions as to user (including restrictions associated with planning for bushfire) 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) The existing Restrictions on Title over this site, relating to stormwater infiltration requirements, disallowed plant species, and pet ownership (dogs and cats) restrictions, are to be reiterated on the 88B instrument for this subdivision.

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]

50. Submit to Council's Property Officer for approval an appropriate plan indicating the street/road address number to both proposed and existing lots. In accordance with clause 60 of the Surveying and Spatial Information Regulation 2012 the Plan of Subdivision (Deposited Plan) shall show the approved street address for each new lot in the deposited plan. Furthermore, prior to the issue of a Subdivision Certificate, each lot shall have its' address number displayed in accordance with Council's procedure on street numbering.

[PSC0845]

51. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate.

[PSC0855]

52. Pursuant to Section 80A(1)(b) of the Environmental Planning and Assessment Act, 1979 (As amended) and Clause 97 of the Environmental Planning and Assessment Regulations, 2000 Development Consent No. DA06/1289 dated 24 January 2008 shall be surrendered by lodgement of the prescribed information, suitably executed, PRIOR to the issue of a Subdivision Certificate.

[PSC0875]

53. 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]

54. Prior to the application for a Subdivision Certificate a Compliance Certificate or Certificates shall be obtained from Council OR an accredited certifier for the following:-

- (a) Compliance Certificate - Water Reticulation
- (b) Compliance Certificate - Sewerage Reticulation
- (c) Compliance Certificate - Drainage

Note:

- 1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual and Councils Development Design and Construction Specifications.
- 2. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[PSC0915]

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

[PSC0925]

56. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of any stormwater pipes and sewerage system installed and to be dedicated to Council including joints and junctions will be required to demonstrate that the standard of the infrastructure is acceptable to Council.

Any defects identified by the inspection are to be repaired in accordance with Councils Development Design and Construction Specification.

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[PSC1065]

57. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to all lots within the subdivision in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications and the Construction Certificate approval.

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

[PSC1115]

58. The production of written evidence from the local telecommunications supply authority certifying that the provision and commissioning of underground telephone supply at the front boundary of the allotment has been completed.

[PSC1165]

59. Electricity

(a) The production of written evidence from the local electricity supply authority certifying that reticulation and energising of underground electricity (residential and rural residential) has been provided adjacent to the front boundary of each allotment; and

(b) The reticulation includes the provision of fully installed electric street lights to the relevant Australian standard - if necessary. Such lights to be capable of being energised following a formal request by Council.

Should any electrical supply authority infrastructure (sub-stations, switching stations, cabling etc) be required to be located on Council land (existing or future), then Council is to be included in all negotiations. Appropriate easements are to be created over all such infrastructure, whether on Council lands or private lands.

Compensatory measures may be pursued by the General Manager or his delegate for any significant effect on Public Reserves or Drainage Reserves.

[PSC1185]

60. The existing Restriction on Title (No. 15 per 88B instrument annexed to DP 1083567) relating to compulsory use of the site for multi-unit tourist accommodation, is to be extinguished.

[PSCNS01]

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

1. The development proposal is to comply with the subdivision layout identified on the plan prepared by Planit Consulting, reference Plan No. 1C (revision 02), dated 01/13.
2. At the issue of subdivision certificate and in perpetuity, the land inward from the eastern boundary of the residue lot to a distance of 15 metres, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
3. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

The Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr B Longland
AGAINST VOTE - Cr K Milne, Cr G Bagnall

David Keenan returned from temporary absence at 06:46 PM

10 [PR-CM] Development Application DA12/0170 for Alterations and Additions to Motel (Staged) at Lots 9-12 Section 4 DP 31209 Nos. 19-25 Cypress Crescent, Cabarita Beach; Lots 1-2 Section 4 DP 29748 Nos. 26-28 Tweed Coast Road, Cabarita Beach

73

Cr W Polglase
Cr P Youngblutt

RESOLVED that Development Application DA12/0170 for Alterations and Additions to Motel (Staged) at Lots 9-12 Section 4 DP 31209 Nos. 19-25 Cypress Crescent, Cabarita Beach; Lots 1-2 Section 4 DP 29748 Nos. 26-28 Tweed Coast Road, Cabarita Beach 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:
 - Site Plan Proposed, DA106 Revision A, dated 29 March 2012;
 - Ground Floor Plan, DA107 Revision B, dated 13 September 2012;
 - First Floor Plan Proposed, DA108, Revision A, dated 29 March 2012;
 - Second Floor Plan Proposed, DA109, Revision A, dated 29 March 2012;
 - Roof Plan Proposed, DA110, Revision A, dated 29 March 2012;
 - Elevations North / South, DA201, Revision A, dated 29 March 2012;
 - Elevations East / West, DA202, Revision A, dated 29 March 2012;
 - Sections, DA300, Revision A, dated 29 March 2012;

All prepared by Virginia Kerridge Architect, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

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

[GEN0135]

4. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by the General Manager or his delegate

prior to any discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges.

[GEN0190]

5. Structures proposed/identified within/over the proposed Drainage Easement on the land are not approved and are to be deleted or located external to the easement. This refers to the "Covered Service Entry" portion of the proposed development.

Council may reconsider this requirement and allow a modified version of an open roofed structure over Council's stormwater pipe infrastructure if appropriate justification is provided that addresses:

- Retention of the existing ground level, without full floor slab construction over the stormwater pipe. "Lightweight" concrete flooring or paving would be acceptable.
- A clear vertical clearance of 2.4m (minimum) from the finished ground/floor level to the underside of any roof structure is provided.
- Verification that the proposed easement is not the relief stormwater overland flowpath route through the site.
- No permanent walls to be erected across the easement.
- Adjacent floor slabs to incorporate appropriate pier and beam design to avoid placing any load on the existing pipe.
- Unimpeded access is to be available to the pipe by Council Officers at all times.

Details are to be provided with the construction certificate application for the relevant Stage of the proposed development.

[GEN0255]

6. 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]

7. The signage hereby approved shall not include any form of internal or external illumination, unless otherwise approved by the General Manager or delegate officer in order to safeguard the residential and visual amenity of the locality.

[GENNS01]

8. Waste management on the site shall be carried out in accordance with the approved Waste Management Plan prepared by Planit Consulting, dated April 2012.

[GENNS02]

9. The facilities hereby approved within the motel building (such as restaurant/dining area, lounge room and outdoor food and beverage service area) are to be used by guests of the motel only, with the exception of ancillary functions and events consistent with the use of the premises as a motel and linked to guests residing on site.

10. The swimming pool hereby approved shall be used by guests of the motel only and are not to be utilised by members of the general public, unless otherwise approved in writing by the General Manager or delegate officer.

11. This development consent approves the construction of alterations and additions to the existing motel only to be used by guests and staff of the motel only and other ancillary activities.

12. The use of the motel for members of the general public or for functions, parties or the like is permitted on an ancillary basis to the primary function of the premises as a motel.
13. This approval relates to Lots 9, 10, 11 and 12 in Section 4 DP 31209 and does not authorise any works over Lots 1 or 2 in Section 4 DP 29748 (eg. the proposed tennis court and signage).
14. This approval does not include any signage. Where statutorily required any signage should be subject to a future application.
15. Deleted.

[GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

16. The developer shall provide 25 parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

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

[PCC0065]

17. Section 94 Contributions

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

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

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

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

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

- (a) Tweed Road Contribution Plan:

14.88 Trips @ \$1155 per Trips \$17186

(\$1145 base rate + \$10 indexation)

S94 Plan No. 4

Sector7_4

- (b) Open Space (Casual):

10.4 ET @ \$526 per ET \$5470

(\$502 base rate + \$24 indexation)

S94 Plan No. 5

- (c) Open Space (Structured):
10.4 ET @ \$602 per ET \$6261
(\$575 base rate + \$27 indexation)
S94 Plan No. 5
- (d) Shirewide Library Facilities:
10.4 ET @ \$816 per ET \$8486
(\$792 base rate + \$24 indexation)
S94 Plan No. 11
- (e) Community Facilities (Tweed Coast - North)
10.4 ET @ \$1352 per ET \$14061
(\$1305.6 base rate + \$46.4 indexation)
S94 Plan No. 15
- (f) Extensions to Council Administration Offices
& Technical Support Facilities
10.4 ET @ \$1812.62 per ET \$18851.25
(\$1759.9 base rate + \$52.72 indexation)
S94 Plan No. 18

[PCC0215]

18. 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.

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.

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5 prior to the issue of a construction certificate. 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)
- \$Unit the unit cost attributed to maintaining a road as set out in Section 7.2
(currently 5.4c per tonne per kilometre)
- Admin. Administration component - 5% - see Section 6.6

[PCC0225/PSC0185]

19. 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: 2.727 ET @ \$12150 per ET \$33133.10

Sewer Hastings Point: 4.1314 ET @ \$5838 per ET \$24119.10

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]

20. 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]

21. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, description of material, proposed use of material, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for the approval of the General Manager or his delegate.

[PCC0465]

22. 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.

[PCC0485]

23. 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: construction of two (2) vehicular footpath crossings.
- (b) Construction of concrete path paving for the Cypress Crescent frontage.

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

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

[PCC0895]

24. Details from a Structural Engineer are to be submitted to the Principal Certifying Authority for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the sewer main, public stormwater infrastructure, or other underground infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate.

[PCC0935]

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

- (a) The Construction Certificate Application shall detail stormwater management for the occupational or use stage of the development 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 within the Construction Certificate application include:

- (i) Shake down area along the haul route immediately before the intersection with the road reserve.

[PCC1105]

26. 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 Section 68 of the Local Government Act.

Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC1145]

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

- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

28. The applicant is to provide a report from a suitably qualified person verifying that an environmental risk assessment has been carried out, and that radiation levels throughout the proposed development site do not pose a public health risk. In the event that radiation is detected at levels likely to result in a risk to occupants and/ or users of the site, then a site remediation plan is to be prepared and submitted to Tweed Shire Council for approval to the satisfaction of the General Manager or delegate.

29. A noise management plan shall be prepared and submitted to the satisfaction of the General Manager or his delegate which details the type of plant and equipment proposed, proposed location of all plant and equipment, and proposed noise mitigation measures to ensure that the emission of intrusive noise is prevented. Such management plan shall be submitted and approved prior to the issue of the construction certificate.

30. Prior to the construction certificate being issued plans drawn to a scale of 1:50 detailing the following with regards to all food related areas (handling, storage, preparation and service) shall be provided to Council for assessment and approval, accompanied by a completed Application for Approval of Food Premise Fit-out, and the adopted fee in Council's Fees and Charges. Evidence of the plans being approved shall be provided prior to release of the construction certificate:

- a. Floor plan;
- b. Layout of kitchens and bar showing all equipment;
- c. All internal finish details including floors, wall, ceiling and lighting;

- d. Hydraulic design in particular method of disposal of trade waste;
 - e. Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required.
31. Prior to the issue of a Construction Certificate, the applicant is to provide details of the location, height and materials of all boundary treatment (fences and walls) to be approved in writing by the General Manager or delegate officer. Boundary treatment shall be constructed in accordance with the approved details and thereafter be retained as such.
32. Prior to the construction certificate being issued plans drawn to a scale of 1:50 detailing the following with regards to all food related areas (handling, storage, preparation and service) shall be provided to Council for assessment and approval, accompanied by a completed Application for Approval of Food Premise Fit-out, and the adopted fee in Council's Fees and Charges. Evidence of the plans being approved shall be provided prior to release of the construction certificate:
- a. Floor plan;
 - b. Layout of kitchens and bar showing all equipment;
 - c. All internal finish details including floors, wall, ceiling and lighting;
 - d. Hydraulic design in particular method of disposal of trade waste;
 - e. Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required.
33. Prior to the issue of a construction certificate for any of the proposed Stages of the development, a Traffic Management Plan shall be submitted to the Principal Certifying Authority to address the access requirements for Heavy Ridge Vehicle/Small Rigid Vehicle movements within the site, to avoid conflict with existing parking arrangements and facilities.

[PCCNS03]

34. Prior to the issue of a construction certificate for Stage 1, a Stormwater Management Plan and detailed stormwater design information is to be provided that must address;
- The requirement for a relief overland stormwater flowpath through the site, from the existing low point at the Cypress Crescent frontage, through the proposed car park, and merging with the existing ground level at the southern boundary, aligning with the existing Drainage Easement.
 - Investigates and assesses the upstream stormwater catchment, for a Q100 year storm event, to determine the required volume, depth, velocity, and top water level of overland flows that must be catered for.
 - The floor levels of any habitable buildings are to be a minimum of 300mm above the top water level as determined by the previous dot point.
 - Revert any concentrated flow (within the relief overland flowpath) back to a broad flow pattern along the southern boundary of the site, to mimic the existing situation as near as possible.
 - Any boundary or internal fencing that crosses the overland flowpath shall be of an open nature to allow for flow-through capability.
 - An appropriate easement is to be created over the overland stormwater flowpath.

[PCCNS04]

35. The applicant is to submit to Council details of proposed signage (including a scaled plan, details of materials, colours and wording) to be approved by the General Manager or delegate office prior to the issue of a Construction Certificate. The signage shall be carried out in accordance with the approved details and shall thereafter be retained as such.
36. Prior to the issue of the Construction Certificate, a detailed plan of landscaping with a minimum 80% of total plant numbers comprised of local native species and no noxious or environmental weed species or threatened species is to be submitted and approved by Council's General Manager or his delegate.
37. The proponent is to prepare a report, to the satisfaction of the Principal Certifying Authority, prior to the issue of the Construction Certificate, detailing how the outdoor food and beverage area is to be dismantled and removed from the site if the erosion escarpment comes within 20 metres of the building.
- [PCCNS05]
38. Prior to issue of a construction certificate the applicant is to provide to Council for approval a revised site plan showing all works within Lots 9, 10, 11 and 12 in Section 4 DP 31209 including car parking and access provisions. This plan should retain the same number of car parking spaces as proposed within DA12/0170.

PRIOR TO COMMENCEMENT OF WORK

39. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.
- [PCW0005]
40. 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]

41. 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]

42. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of the fill, nature of material, proposed use of material and confirmation that further blending, crushing or processing is not to be undertaken shall be submitted to the satisfaction of the General Manager or his delegate.

Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to the issue of the Subdivision Certificate.

[PCW0375]

43. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act and Premises Standard which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0665]

44. 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. These measures are to be in accordance with any erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

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]

45. 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

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

[DUR0005]

47. 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]

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

49. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

- A. Short Term Period - 4 weeks.

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

- B. Long term period - the duration.

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

[DUR0215]

50. Where required by the Building Code of Australia, the fire services within the existing building is to be upgraded to comply with the Building Code of Australia and 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]

51. 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]

52. 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]

53. 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]

54. During filling operations,

- No filling is to be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.
- All fill and cut batters shall be contained wholly within the subject land.
- 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 and to the satisfaction of the Principal Certifying Authority.

and upon completion,

- all topsoil to be respread and the site to be grassed and landscaped including battered areas.

[DUR0755]

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

[DUR0815]

56. 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]

57. 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]

58. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate.

[DUR0995]

59. 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]

60. 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]

61. 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]

62. All materials used in the building must comply with the smoke developed and spread of flame indices specified in Specification C1.10 of the Building Code of Australia.

Note: Many materials including some timbers such as western red cedar do not comply and it is the applicant's responsibility to ensure that all materials to be used are within the criteria specified.

[DUR1275]

63. A survey certificate signed by a registered surveyor is to be submitted to the Principal Certifying Authority at floor stage to certify that all habitable floor levels are at a level of not less than 300mm above the designed top water level within the overland stormwater flowpath traversing the site.

[DUR1445]

64. All walls in the food preparation and storage areas shall be of solid construction. For this purpose walls in such areas may be of masonry or stud wall construction. If stud wall construction is used then the wall shall be lined as a minimum with 9mm thick high impact resistant material eg. Villaboard or Versilux lining or other suitable material(s) approved by Council's Environmental Health Officer and tiled to a height of at least 2 meters.

Masonry walls where not tiled may be cement rendered to provide a smooth faced impervious finish up to the underside of the ceiling.

Metal stud wall framing in lieu of timber framing shall be used in areas where the walls and floor surfaces will be subjected to high levels of moisture or alternatively as directed by Council's Environmental Health Officer.

All penetrations of the wall surface in food preparation areas shall be effectively sealed to the satisfaction of Council's Environmental Health officer.

[DUR1495]

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

[DUR1505]

66. Windows and doors opening into food handling, preparation and storage areas shall be pest proofed in accordance with the provisions of Food Safety Standard 3.2.3.

[DUR1515]

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

[DUR1545]

68. During the course of the construction and fitout of the kitchen/food premises periodic inspections must be arranged with Councils Environmental Health officer to ensure compliance with all health related conditions of approval and respective legislation.

[DUR1575]

69. A concrete footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire Tweed Coast Road frontage of the site 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).

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

[DUR1735]

70. 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]

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

[DUR1875]

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

[DUR1905]

73. 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]

74. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blow from the site.

[DUR2185]

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

[DUR2195]

76. 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]

77. 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]

78. 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]

79. 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]

80. 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]

81. 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]

82. House drainage lines affected by the proposal are to be relocated to Council's satisfaction. Prior to the relocation of any plumbing and drainage lines, a plumbing

permit and the relevant plumbing permit fee is to be submitted to Council. Inspection of drainage works prior to covering is required

[DUR2565]

83. All structures are to be sited at least one metre horizontally clear of Council's stormwater infrastructure and sewer main on site. All footings and slabs within the area of influence of the stormwater pipe and sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not affect or be affected by the stormwater pipe or sewer main.

[DUR2645]

84. The development shall be carried out in accordance with the provisions of the Environmental Noise Impact report prepared by CRG Acoustical Consultants (ref: crgref12008a report dated 10 April 2012) except where modified by this consent.
85. All plant and equipment including swimming pool pumps, air conditioning units, heat pump water systems and the like shall be located and installed so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.
86. All plant and equipment including swimming pool pumps, air conditioning units, heat pump water systems and the like shall be located and installed so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.
87. Vegetation clearing is limited to three (3) trees and several ornamental palms as identified on the On-site Vegetation Management Plan prepared by Planit Consulting and dated July 2012.
88. Wherever possible an adequate Tree Protection Zone shall be provided around vegetation that is to be retained to limit the extent of works. Tree Protection Zones:
- a. Shall be adequately fenced, marked and sign posted before, during and after construction.
 - b. All trenches, footings and major earth movement shall avoid Tree Protection Zones.
 - c. Materials and soils shall not be stockpiled within Tree Protection Zones.
 - d. Machinery shall avoid Tree Protection Zones during all operations.
89. The outdoor food and beverage service area is to be constructed as a separate structure and be demountable or relocatable. The structure does not require screw piles as it will be sacrificial.

[DURNS03]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

91. 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]
92. 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]
93. 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]
94. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval.
[POC0615]
95. The proprietor of the food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations by completing the "Notify a Food Business" form under the NAFSIS Heading on the following website www.foodnotify.nsw.gov.au or alternatively by contacting the NSW Food Authority on 1300650124.
[POC0625]
96. The premises is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request.
[POC0635]
97. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 138 of the Roads Act 1993.
[POC0745]
98. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining works in accordance with Councils Development Design and Construction Specifications.
[POC0755]
99. On completion of work a certificate signed by a practising structural engineer is to be submitted to the Principal Certifying Authority to certify the structural adequacy of the structure.
[POC0805]
100. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate for Stage 1 works.
[POC0855]
101. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

102. 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]

103. Prior to the issue of an Occupation Certificate for Stage 1, the following Easements are to be created over the site (and are recommended to be created in conjunction with the consolidation of the site into a single allotment:

- i. Drainage Easement 3m wide over the existing Council stormwater pipe that traverses the site.
- ii. Easement for Overland Stormwater Flowpath over the route of the constructed flowpath through the site. Note that this easement may overlap existing or proposed Drainage Easements.

[POCNS01]

104. Prior to the issue of an Occupation Certificate for Stage 1, existing Development Consent DA07/0966 shall be surrendered.

[POCNS02]

105. As the development subject of this consent has been identified as being within one or more of the Coastal Hazard Zones as described in Tweed Development Control Plan B25 this consent is subject to the owner of the subject land PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE creating a positive covenant under section 88E of the (*Conveyancing Act, 1919*) on the following terms:

- “(i) *The registered proprietor of the subject land acknowledges that the subject land is within a Coastal Hazard Zone as described in Tweed Development Control Plan B25 or any other subsequent iteration of that planning instrument.*
- (ii) *The registered proprietor also acknowledges that any development within the subject land must comply with the terms set out herein as follows:*
 - a. *In the event that the erosion escarpment comes within 20 metres of any habitable building/s on the subject land then the use of any building/s shall cease and the registered proprietor of the subject land shall remove any or all buildings to a location on the subject land that is further than 20 metres from the erosion escarpment where possible, or off site where not possible. In the event that relocation is not possible, then any affected building shall be demolished.*
 - b. *The registered proprietor of the subject land shall bear all costs in relation to the relocation or demolition of any or all buildings located on the subject land.*
 - c. *The terms "Coastal Hazard Zones", "erosion escarpment" and any other references of this covenant are to be read as having the meaning in accordance with their definitions in the Tweed Development Control Plan B25”.*

[POCNS03]

106. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.

107. All proposed works within the 2100 Hazard Zone need to demonstrate they are in accordance with Section 3.3.2 of the Coast Hazard - Tweed DCP B25.

USE

108. 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]

109. The $L_{Aeq, 15 \text{ min}}$ noise level emitted from the premises shall not exceed the background noise level (L_{Aeq}) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.

[USE0165]

110. 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]

111. Hours of operation of the business are restricted to the following hours and in accord with the recommendations of the CRG Acoustical Consultants (ref: crgref12008a report dated 10 April 2012):

- * Dining areas, not including BBQ or Outdoor Bar and Dining Areas, 7am - 10pm Sunday to Thursday, 7am - 12am Friday and Saturday and Public Holidays;
- * Outdoor facilities, including Pool, BBQ and Bar and Outdoor Dining Areas, 7am to 10pm Monday to Sunday.

[USE0185]

112. 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]

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

[USE0245]

114. Any vehicles that remain on site for periods in excess of two (2) minutes are required to switch off their engines.

[USE0255]

115. All trade materials, product and plant to be kept within confines of the building at all times.

[USE0515]

116. All loading/unloading to take place within the boundary of the subject property.

[USE0525]

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

[USE0835]

118. Amplified music or sound is only to be undertaken in accord with the recommendations of the CRG Acoustical Consultants (refer: crgregref12008a report dated 10 April 2012).

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

1. The motel re-development proposal is to comply with the plans attached to the Bush Fire Safety Authority (BFSA) application, referred by Tweed Shire Council under S 100B of the Rural Fires Act and received by the NSW RFS 16 May 2012, along with amendments made by the attached conditions.

The plans referred to (and used for this assessment) are noted as being prepared by Virginia Kerridge Architect, and are identified as:

- Site Plan DA106, Revision A, Dated 29/3/12;
- Ground Floor Plan, DA107, Revision B, Dated 13/09/12;
- First Floor Plan Proposed, DA108, Revision A, Dated 29/3/12;
- Second Floor Plan Proposed, DA109, Revision A, Dated 29/3/12;
- Roof Plan Proposed, DA110, Revision A, Dated 29/3/12;
- Elevations North South, DA201, Revision A, Dated 29/3/12;
- Elevations East West, DA202, Revision A, Dated 29/3/12;
- Sections DA300, Revision A, Dated 29/3/12.

2. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

3. Water, electricity and gas are to comply with sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire Protection 2006'.

4. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

5. Exits are to be located away from the hazard side of the building.

6. Roller doors, tilt-a-doors and other such doors shall be sealed to prevent the entry of embers into the building.

7. No brushwood fencing shall be used.

8. Structure and shade materials in the inner protection area shall be non-combustible or have a Flammability Index of no greater than 5 when tested in accordance with Australian Standard AS1530.2-1993 'Methods for Fire Tests on Building Materials, Components and Structures - Test for Flammability of Materials'.

9. New construction on the Northern, Eastern and Southern elevations of the existing motel building, with a setback distance greater than 16.8m from the Eastern boundary (generally balcony additions), shall comply with Sections 3 and 7 (BAL - 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
10. New construction on the Western elevation of the existing motel building and all other additions located to the West of the existing motel, shall comply with Sections 3 and 6 (Bal - 19) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
11. The 'Outdoor food and beverage service area' and the 'Equipment store' shall either be constructed from non-combustible materials or comply with Sections 3 and 9 (BAL-FZ) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

However, any material, element of construction or system when tested to the method described in Australian Standard AS1530.8.2 'Methods for fire tests on building materials, components and structures Part 8.2: Tests on elements of construction for buildings exposed to simulated bushfire attack - Large flaming sources' shall comply with Clause 13.8 of that Standard except that flaming of the specimen is not permitted and there shall be no exposed timber.

Window assemblies shall comply with one of the following:

- a) Clause 9.5.2 of AS 3959-2009 as modified above; or
- b) They shall comply with the following:
 - i. Completely protected by a non-combustible and non perforated bushfire shutter that complies with Section 3.7 of AS3959-2009 excluding parts (e) & (f).
 - ii. Window frames and hardware shall be metal.
 - iii. Glazing shall be toughened glass minimum 6mm.
 - iv. Seals to stiles, heads and sills or thresholds shall be manufactured from materials having a flammability index no greater than 5 or from silicone.
 - v. The operable portion of the window shall be screened internally or externally with screens that comply with Clause 9.5.1A.

External doors and door frames (not including garage doors) shall comply with one of the following:

- a) Clause 9.5.3 or 9.5.4 of AS 3959-2009 as modified above; or
- b) They shall comply with the following:
 - i. Completely protected by a non-combustible and non perforated bushfire shutter that complies with Section 3.7 of AS 3959-2009 excluding parts (e) & (f).
 - ii. Doors shall be non-combustible.
 - iii. Externally fitted hardware that supports the panel in its function of opening and closing shall be metal.
 - iv. Where doors incorporate glazing, the glazing shall be toughened glass minimum 6mm.

- v. Seals to stiles, head and sills or thresholds shall be manufactured from materials having a flammability index no greater than 5 or from silicone.
 - vi. Doorframes shall be metal.
 - vii. Doors shall be tight fitting to the doorframe and to an abutting door if applicable.
 - viii. Weather strips, draught excluders or draught seals shall be installed at the base of side-hung external doors.
12. Roofing of the single storey buildings shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall be non-combustible.
13. New construction, located generally on the Eastern side of the motel building, and having a setback of between 16.8m and 21.3m from the Eastern boundary (i.e. additions to: serviced apartments and restaurant), shall comply with Sections 3 and 8 (BAL -40) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
14. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

Note

The following bushfire-resisting timbers have been determined as being acceptable to withstand exposure up to BAL -29 conditions as per Australian Standard AS 3959-2009 'Construction of buildings in bush fire-prone areas' and are identified within Appendix F of the standard. These species include: Silvertop Ash, Blackbutt, River Red Gum, Spotted Gum, Red Ironbark, Kwila (Merbau) and Turpentine.

The Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr B Longland

AGAINST VOTE - Cr K Milne, Cr G Bagnall

- 11 [PR-CM] Development Application DA12/0320 for a Two Lot into Six Lot Subdivision at Lot 12 DP 825726 No. 26 Waterlily Close; Lot 25 DP 870463 No. 37 Hindmarsh Road, Nunderi

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**Cr P Youngblutt
Cr W Polglase**

RESOLVED that Development Application DA12/0320 for a two lot into six lot subdivision at Lot 12 DP 825726; No. 26 Waterlily Close; Lot 25 DP 870463; No. 37 Hindmarsh Road Nunderi 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 BH110134-DA1A Issue A (Proposed Layout Plan)

dated 11 June 2012, BH110134-CV14 Issue C (Concept Layout Plan) dated 26 June 2012, BH110134-CV15 Issue B (Sediment and Erosion Control Plan) dated 19 June 2012, BH110134-CV-16 Issue A (Stormwater Catchment Plan) dated 01 February 2012, BH110134-CV17 Issue B dated 19 June 2012 prepared by Hammond & Associates, except where varied by the conditions of this consent.

[GEN0005]

2. The use of crushing plant machinery, mechanical screening or mechanical blending of materials is subject to separate development application.

[GEN0045]

3. 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]

4. 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]

5. The approved subdivision/development shall not result in any clearing of native vegetation without prior approval from the relevant authority.

[GEN0290]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works as set out in Council's fees and charges at the time of payment.

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Subdivision/Occupation Certificate is issued.

[PCC0275]

7. 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]

8. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17° or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.

Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:

- (a) Contours and terraces where the height exceeds 1m.
- (b) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.

- (c) Densely plant with appropriate native species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
- (d) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.
- [PCC0455]
9. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, description of material, proposed use of material, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for the approval of the General Manager or his delegate.
- [PCC0465]
10. 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.
- [PCC0485]
11. A detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.
- [PCC0585]
12. Site filling and associated drainage is to be designed to address drainage on the site as well as existing stormwater flows onto or through the site, and minimising the impact of filling on local drainage. Detailed engineering plans of fill levels and perimeter drainage shall be submitted for Council approval.
- [PCC0675]
13. Design detail shall be provided with the Construction Certificate to address the flood compatibility of the proposed structures including the following specific matters:
- (a) Design flood level of RL4.2m AHD.
- (b) Provision of a high level evacuation route, as defined by DCP-A3, to all dwelling sites, considering both regional and local catchment flood events.
- [PCC0705]
14. 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 to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.
- [PCC0865]
15. The proponent shall submit plans and specifications with an application for Construction Certificate for the following civil works and any associated subsurface overland flow and piped stormwater drainage structures designed in accordance with Councils Development Design and Construction specifications:
-

- (a) Construction of filled building pads, access driveway construction and/or modifications for all Lots, and various stormwater drainage works including dam spillway modification, re-routing a drain through Lot 1, and several driveway culverts and swale drains, as nominated in various reports in the Statement of Environmental Effects.
- (b) The access driveway for Lot 5 shall be provided with a gravelled surface and not a grassed surface as depicted on Hammond & Associates plan BH110134-CV14.
- (c) The existing water supply pipe from Gumtree Court that services the existing dwelling on Lot 25 (No. 37 Hindmarsh Road) is to be disconnected and fully removed (at least) wherever it crosses internal lot boundaries.
- (d) The construction of vehicular footpath crossings for Lots 1, 2 and 4 can be included in the construction certificate application - or alternatively the applicant may submit separate applications pursuant to Section 138 of the Roads Act for these works.

[PCC0875]

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

- (a) copies of compliance certificates relied upon
- (b) four copies of detailed engineering plans and specifications, *prepared in accordance with Development Design Specification D13 - particularly Section D13.09*. The detailed plans shall include but are not limited to the following:
 - earthworks
 - roadworks/furnishings
 - stormwater drainage
 - water supply works
 - landscaping works
 - sedimentation and erosion management plans
 - location of all service conduits (water, electricity supply and telecommunication infrastructure), *as well as details and locations of any significant electrical servicing infrastructure - such as transformers and substations*

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]

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

- (a) The Construction Certificate Application shall detail stormwater management for the occupational or use stage of the development 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 within the Construction Certificate application include:
- (e) Shake down area along the haul route immediately before the intersection with the road reserve.

[PCC1105]

18. 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 Section 68 of the Local Government Act.

- a) Applications for these works must be submitted on Council's standard Section 68 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 Local Government Act will then NOT be required.

[PCC1145]

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

- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

20. Prior to issue of the Construction Certificate, the applicant is to submit a Habitat Restoration Plan in accordance with Council's draft guidelines as attached and the Terms of Approval from the Office of Water and dated 12 November 2012 detailing:

- (a) The establishment and maintenance of the rehabilitated riparian corridor in accordance with the Office of Water guidelines and to the satisfaction of Council's Director of Planning and Regulation or delegate.
- (b) The retention of all preferred Koala feed trees (*Eucalyptus robusta*, *Eucalyptus tereticornis*, *Eucalyptus microcorys*, and *Eucalyptus propinqua*)
- (c) Identification of the location and demonstration of the retention of the individual *Rhodamnia maideniana*.

The Habitat Restoration Plan must be approved to the satisfaction of Council's Director of Planning and Regulation or delegate prior to commencement of works.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

21. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

22. Prior to the commencement of works, the applicant shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with either:-

- (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
- (b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
- (c) WorkCover Regulations 2000.

[PCW0025]

23. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of the fill, nature of material, proposed use of material and confirmation that further blending, crushing or processing is not to be undertaken shall be submitted to the satisfaction of the General Manager or his delegate.

Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to the issue of the Subdivision Certificate.

[PCW0375]

24. Civil work in accordance with a development consent must not be commenced until:
- (a) a Construction Certificate for the civil work has been issued in accordance with Councils Development Construction Specification C101 by:
 - (i) the consent authority, or
 - (ii) an accredited certifier, and
 - (b) the person having the benefit of the development consent:
 - (i) has appointed a principal certifying authority,
 - (ii) has appointed a Subdivision Works Accredited Certifier (SWAC) to certify the compliance of the completed works. The SWAC must be accredited in accordance with Tweed Shire Council DCP Part A5 - Subdivision Manual, Appendix C with accreditation in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the SWAC shall possess accreditation in the following categories:
 - C4: Accredited Certifier - Stormwater management facilities construction compliance
 - C6: Accredited Certifier - Subdivision road and drainage construction compliance

The SWAC shall provide documentary evidence to Council demonstrating current accreditation with the Building Professionals Board prior to commencement of works, and

- (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment,
- (iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and
- (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the civil work.

Note: For subdivisions creating 5 new allotments or less, OR the value of new public infrastructure is less than \$30,000, then the SWAC may be substituted for an Institute of Engineers Australia Chartered Professional Engineer (Civil College) with National Professional Engineers Register (NPER) registration.

[PCW0815]

25. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.

[PCW0835]

26. 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. These measures are to be in accordance with any erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

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

[PCW0985]

DURING CONSTRUCTION

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

[DUR0005]

28. 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]

29. 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]

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

[DUR0225]

31. During filling operations:

- No filling is to be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.
- All fill and cut batters shall be contained wholly within the subject land.
- 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 and to the satisfaction of the Principal Certifying Authority.

and upon completion,

- all topsoil to be respread and the site to be grassed and landscaped including battered areas.

[DUR0755]

32. No filling is to be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.

No filling of any description is to be deposited, or remain deposited, within adjacent properties.

[DUR0765]

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

The earthworks shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to the Principal Certifying Authority upon completion.

[DUR0795]

34. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited. [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 issue of a Subdivision Certificate/Occupation Certificate. [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. 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]
39. 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]
40. All works shall be carried out in accordance with Councils Acid Sulfate Soils Management Plan for Minor Works. A signed copy of this Management Plan shall be submitted to Council prior to the commencement of works. [DUR1075]
41. 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]
42. Deleted. [DUR1805]
43. During the relevant stages of road construction, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface demonstrating:
- (a) That the pavement layers have been compacted in accordance with Councils Development Design and Construction Specifications.
 - (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.

[DUR1825]

44. 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]

45. If Tweed Shire Council issues the Construction Certificate, Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, Appendix D. Inspection fees are based on the rates contained in Council's current Fees and Charges:

Roadworks/Driveway Works

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre seal
- (f) Final inspections - on maintenance
- (g) Off Maintenance inspection

Water Reticulation, Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures
- (g) Drainage channels
- (h) Final inspection - on maintenance
- (i) Off maintenance

Council's role is limited to the above mandatory inspections and does NOT include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

The fee for the abovementioned inspections shall be invoiced upon completion of all civil works, and subject to the submission of an application for a 'Subdivision Works Compliance Certificate'.

[DUR1895]

46. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

47. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blow from the site.

[DUR2185]

48. 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]

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

[DUR2435]

50. All operations must comply with the fauna and flora amelioration measures as outlined in the Ecological Assessment prepared by James Warren & Associates and dated July 2012. In the event that any threatened species, populations, ecological communities or their habitats not addressed in the report are discovered during operations, appropriate Plans of Management for those species must be formulated to the satisfaction of the General Manager or delegate. No further operational works will take place until the Plan(s) of Management is/are approved.

51. No preferred Koala feed trees (*Eucalyptus robusta*, *Eucalyptus tereticornis*, *Eucalyptus microcorys*, and *Eucalyptus propinqua*), Pink Bloodwood (*Corymbia intermedia*) within proposed Lot 6, Blackbutt (*Eucalyptus pilularis*) within proposed Lot 5 and large Fig (*Ficus* sp.) in proposed Lot 3 may be cleared without specific approval of the General Manager or delegate. Should any of these trees require removal or become damaged or die during subdivision works, a suitable replacement tree will be planted on the site to the satisfaction of the General Manager or delegate.

52. The only drainage lines approved for filling are those specified on the Conceptual Layout Plan (Drawing number: BH110134-CV14) as designed by Hammond & Associates and dated May 2012.

[DURNS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

53. Prior to issue of a subdivision certificate, all works/actions/inspections etc required by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[PSC0005]

54. 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 Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision 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: 2.4 ET @ \$12150 per ET \$29,160

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]

55. Section 94 Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

These charges 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, Tumbulgam Road, Murwillumbah and Brett Street, Tweed Heads.

- (a) Tweed Road Contribution Plan:

26 Trips @ \$1822 per Trips \$46,908*

(\$1807 base rate + \$15 indexation)

S94 Plan No. 4

Sector10_4

- (b) Open Space (Casual):

- 4 ET @ \$526 per ET \$2,104
(\$502 base rate + \$24 indexation)
S94 Plan No. 5
- (c) Open Space (Structured):
4 ET @ \$602 per ET \$2,408
(\$575 base rate + \$27 indexation)
S94 Plan No. 5
- (d) Shirewide Library Facilities:
4 ET @ \$816 per ET \$3,264
(\$792 base rate + \$24 indexation)
S94 Plan No. 11
- (e) Bus Shelters:
4 ET @ \$62 per ET \$248
(\$60 base rate + \$2 indexation)
S94 Plan No. 12
- (f) Eviron Cemetery:
4 ET @ \$121 per ET \$484
(\$101 base rate + \$20 indexation)
S94 Plan No. 13
- (g) Community Facilities (Tweed Coast - North)
4 ET @ \$1352 per ET \$5,408
(\$1305.6 base rate + \$46.4 indexation)
S94 Plan No. 15
- (h) Regional Open Space (Casual)
4 ET @ \$1064 per ET \$4,256
(\$1031 base rate + \$33 indexation)
S94 Plan No. 26
- (i) Regional Open Space (Structured):
4 ET @ \$3730 per ET \$14,920
(\$3619 base rate + \$111 indexation)
S94 Plan No. 26
- * Includes adjustments which effect compliance with the Directions from the Minister for Planning in relation to the maximum contribution payable per dwelling dated 13 January 2009 and 19 July 2009.

[PCC0215/PSC0175]

56. Section 94 Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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.

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5 prior to the issue of the subdivision certificate. 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 7.2
(currently 5.4c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.6

[PSC0185]

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

The bond shall be based on 5% of the value of the public infrastructure works approved under Section 138 of the Roads Act and Section 68 of the Local Government Act (as set out in Councils Fees and Charges current at the time of payment), which will be held by Council for a period of 6 months from the date on which the Occupation Certificate is issued.

It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

58. A bond to ensure acceptable plant establishment and landscaping performance shall be lodged by the Developer prior to the issue of the Subdivision Certificate. The bond shall be held by Council for a period of 6 months from the date of issue of the Subdivision Certificate and may be utilised by Council during this period to undertake essential plant establishment or related plant care works, should non compliance

occur. Any balance remaining at the end of the 6 months establishment period will be refunded.

The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.

[PSC0235]

59. Prior to the issue of a subdivision certificate, a certificate of compliance shall be submitted to Council by the Developers Subdivision Works Accredited Certifier (SWAC) or equivalent, verifying that the placed fill has been compacted in accordance with the requirements of AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments" and is suitable for residential purposes.

The submission shall include copies of all undertaken test results.

[PSC0395]

60. All approved landscaping requirements must be completed to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. Landscaping must be maintained at all times to the satisfaction of the General Manager or delegate.

[PSC0485]

61. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[PSC0725]

62. Prior to the issue of a Subdivision Certificate, Work as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design Specification, D13 - Engineering Plans.

The plans are to be endorsed by a Registered Surveyor OR a Consulting Engineer Certifying that:

- (a) all drainage lines, sewer lines, services and structures are wholly contained within the relevant easement created by the subdivision;
- (b) the plans accurately reflect the Work as Executed.

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed (WAX) plans.

[PSC0735]

63. 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]

64. Prior to the issue of the Subdivision Certificate, certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning And Design (BPAD) certified practitioner, must be submitted to the PCA, confirming that the subject development complies with the Rural Fire Service's General Terms of Approval imposed under Section 100B of the Rural Fires Act 1997 on the consent.

[PSC0830]

65. The creation of easements for services, rights of carriageway and restrictions as to user (including restrictions associated with planning for bushfire) 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) Easements for batters and support for any earthworks batters that cross newly created property boundaries.
 - (c) Positive Covenant over the subject land (as applicable) to ensure that the required provisions of the "Planning for Bushfire Protection 2006" Guidelines and the General Terms of Approval of the Consent as imposed under Section 100B of the Rural Fires Act 1997 are enforced in perpetuity.
 - (d) Extinguishment of superfluous Right Of Carriageways that were previously created to provide temporary turning areas for refuse vehicles and the general public, but are now no longer required.

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]

66. Submit to Council's Property Officer for approval an appropriate plan indicating the street/road address number to both proposed and existing lots. In accordance with clause 60 of the Surveying and Spatial Information Regulation 2012 the Plan of Subdivision (Deposited Plan) shall show the approved street address for each new lot in the deposited plan. Furthermore, prior to the issue of a Subdivision Certificate, each lot shall have its' address number displayed in accordance with Council's procedure on street numbering.

[PSC0845]

67. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate.

[PSC0855]

68. 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]

69. Prior to the application for a Subdivision Certificate a Compliance Certificate or Certificates shall be obtained from Council OR an accredited certifier for the following:-
- (a) Compliance Certificate - Roads/Driveways
 - (b) Compliance Certificate - Water Reticulation
 - (c) Compliance Certificate - Drainage

Note:

1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual and Councils Development Design and Construction Specifications.
2. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[PSC0915]

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

[PSC0925]

71. 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]

72. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of any stormwater pipes and sewerage system installed and to be dedicated to Council including joints and junctions will be required to demonstrate that the standard of the infrastructure is acceptable to Council.

Any defects identified by the inspection are to be repaired in accordance with Councils Development Design and Construction Specification.

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[PSC1065]

73. Prior to issuing a Subdivision Certificate, reticulated water supply (or acceptable alternative) shall be provided to all lots within the subdivision in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual,

Councils Development Design and Construction Specifications and the Construction Certificate approval.

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

[PSC1115]

74. The production of written evidence from the local telecommunications supply authority certifying that the provision and commissioning of underground telephone supply at the front boundary of the allotment has been completed.

[PSC1165]

75. The production of written evidence from the local electricity supply authority certifying that the reticulation of overhead or underground electricity and energising has been provided to each allotment.

Should any electrical supply authority infrastructure (sub-stations, switching stations, cabling etc) be required to be located on Council land (existing or future), then Council is to be included in all negotiations. Appropriate easements are to be created over all such infrastructure, whether on Council lands or private lands.

Compensatory measures may be pursued by the General Manager or his delegate for any significant effect on Public Reserves or Drainage Reserves.

[PSC1175]

76. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, description of material, proposed use of material, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for the approval of the General Manager or his delegate.
77. Proposed onsite sewage management facilities are to be installed in accordance with the HMC report (ref: HMC Pty Ltd 2010.075 dated August 2010) except where modified by this approval.
78. Land application areas, for treated wastewater disposal, are to be located at least 20m from the central drainage channel, which runs from the dam in the east, to the western side of the property.
79. Adequate provision to be made, within filled areas, so that wastewater treatment devices and wastewater Land Application Areas (LAA) can be installed above the following flood levels i.e. Treatment devices (vents and electrical control units) will only be approved for installation above the 100 year ARI flood height, and LAA's will only be approved on the batter slopes of house pads or other areas where the installation height is above the Q20 flood level.
80. Prior to the issue of a subdivision certificate approval to operate the existing on-site sewage management facilities, under Section 68 of the Local Government Act 1993, shall be obtained from Council.
81. Environmental restoration works shall be completed to a level specified in the approved Habitat Restoration Plan and the guidelines as established by the Office of Water prior to the release of the subdivision certificate and shall be maintained in accordance with the approved Plan.
82. The planted area and/or regenerated area shall be fenced to prevent stock access.

83. Fencing shall not restrict the free movement of koalas that may traverse the site from time to time and shall allow a clearance of at least 40cm at the bottom to enable koalas to move under it. If post and wire fencing is used, the bottom strand must not be barbed. Subdivision boundary fences to be erected on the property, shall comply with the following conditions:
- (a) Fences shall be constructed of wire, with the top wire and the bottom two wires consisting of non-electrified plain wire.
 - (b) The bottom fence wire shall be no closer than 40 cm to the ground at any point.
 - (c) The removal of vegetation for fence construction shall be undertaken with hand tools only (e.g. brush cutters, lawn mowers), and shall be limited to a maximum width of 1m.
84. As a minimum the following restrictions as to user under Section 88B of the Conveyancing Act are to be created to Council's satisfaction:
- (a) Restriction as to user regarding the environmental covenant area to be described within the approved Habitat Restoration Plan and the Office of Waters guidelines for the site - this area must be subject to an ecological restoration program where native vegetation is protected. Burden: Each lot. Benefit: Tweed Shire Council.
 - (b) Restriction as to user regarding protection of all Koala feed tree species on the site of 3m or greater in height. Burden: Each lot. Benefit: Tweed Shire Council.

GENERAL TERMS OF APPROVAL UNDER SECTION 91 OF THE WATER MANAGEMENT ACT 2000 (Work requiring a controlled activity approval)

Plans, standards and guidelines	
1	These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA12/0320 and provided by Council. Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Officer of Water must be notified to determine if any variations to these GTA will be required.
2	Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront and for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.
3	The consent holder must prepare or commission the preparation of: (i) Vegetation Management Plan (ii) Erosion and Sediment Control Plan
4	All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The plans must be prepared in accordance with the NSW Office of Water's guidelines located at www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx < http://www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx > (i) Vegetation Management Plans (ii) Riparian Corridors (iii) In-stream works
5	The consent holder must (i) carry out any controlled activity in accordance with

	approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.
Rehabilitation and maintenance	
6	The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.
7	The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.
Reporting requirements	
8	The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.
Security deposits	
9	N/A
Access-ways	
10	N/A
11	N/A
Bridge, causeway, culverts and crossing	
12	N/A
13	N/A
Disposal	
14	The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
Drainage and Stormwater	
15	The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office of Water.
16	The consent holder must stabilise drainage discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.
Erosion control	
17	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
Excavation	

18	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
19	N/A
Maintaining river	
20	The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by the NSW Office of Water.
21	The consent holder must ensure that the surfaces of river banks are graded to enable the unobstructed flow of water and bank retaining structures result in a stable river bank in accordance with a plan approved by the NSW Office of Water.
River bed and bank protection	
22	N/A
23	The consent holder must establish riparian corridors along the unnamed watercourse in accordance with a plan approved by the NSW Office of Water.
Plans, standards and guidelines	
24	N/A
25	N/A
26	N/A
27	N/A
END OF CONDITIONS	

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

1. The development proposal is to comply with the subdivision layout identified on the drawing prepared by Hammond and Associates numbered BH110134-DA1A Sheet 1 of 1, Issue A, dated 11 June 2012.
2. At the issue of subdivision certificate and in perpetuity the land surrounding each of the existing dwellings, on proposed Lots 1 and 6 to a distance of 20m or to the boundary (whichever is the least), shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
3. Water and electricity are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
4. A 10,000l fire fighting water supply must be available for each dwelling where the reticulated supply is not adequate/available or greater than 70m from the most external part of the dwelling. This includes the existing dwelling on proposed Lot 6. Existing tank(s) may be able to be used for this purpose. The fire fighting water supply shall meet the following requirements:
 - (a) A hardened ground surface for fire fighting truck access is to be constructed up to and within 4 metres of the fire fighting water supply.

- (b) A 65mm metal Storz outlet with a gate or ball valve, shall be fitted to any fire fighting water supply tank(s) and be accessible for a fire fighting truck. The Storz outlet fitting shall not be located facing the hazard or the approved structure.
- (c) The gate or ball valve, pipes and tank penetration are adequate for full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material.
- (d) All associated fittings to the fire fighting water supply tank(s) shall be non-combustible.
- (e) All water supplies for fire fighting purposes shall be clearly signposted as a fire fighting water supply.
- (f) Fire fighting water supply tank(s) and associated fittings, located within 60 metres of a bushfire hazard and on the hazard side of an approved building, shall be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for fire fighters.

Should new tank(s) be installed for to provide an adequate fire fighting water supply, they shall meet the following additional requirements:

- (a) Any fire fighting water supply tank(s) located below ground shall be clearly delineated to prevent vehicles being driven over the tank.
- (b) Below ground fire fighting water supply tank(s) shall have an access hole measuring a minimum 200mm x 200mm to allow fire fighting trucks to access water direct from the tank.
- (c) Fire fighting water supply tank(s) shall be located not less than 5 metres and not more than 20 metres from the approved structure.
- (d) Above ground fire fighting water supply tank(s) are to be manufactured using non combustible material (concrete, metal, etc).
- (e) Non combustible materials (concrete, metal, etc) will only be used to elevate or raise fire fighting water supply tank(s) above the natural ground level.
- (f) Any below ground fire fighting water supply tank(s) constructed of combustible polycarbonate, plastic, fiberglass, etc) materials shall be shielded from the impact of radiant heat and direct flame contact.

Note: Below ground dedicated fire fighting water supply tank(s) is defined as: that no part of the tank(s) is to be located above natural ground level.

A Static Water Supply (SWS) sign shall be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:

- i) Markers must be fixed in a suitable location so as to be highly visible; and
- ii) Markers should be positioned adjacent to the most appropriate access for the water supply.

5. In recognition that the existing dwellings may be connected to a gas supply, the following requirements are to be complied with:

- (a) Reticulated or bottled gas is to be installed and maintained in accordance with Australian Standard AS/NZ 1596:2008: 'The storage and handling of LP gas' and the requirements of relevant authorities. Metal piping is to be used.

- (b) All fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and be shielded on the hazard side of the installation.
 - (c) Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal.
 - (d) Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.
6. Property access roads shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.
7. The existing dwellings, located on proposed Lots 1 and 6, are required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

AMENDMENT

75

Cr K Milne
Cr G Bagnall

PROPOSED that this item be deferred to the next council meeting.

The Amendment was **Lost**

FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr B Longland

The Motion was **Carried** (Minute No 74 refers)

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr B Longland

AGAINST VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall

A NOTICE OF RESCISSION HAS BEEN SUBMITTED ON THIS MOTION, BY COUNCILLORS BAGNALL, ARMSTRONG AND MILNE.

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

12 [CNR-CM] River Health Grants

76

Cr W Polglase
Cr P Youngblutt

RESOLVED that Council approves the proposed River Health Grants included within this report.

The Motion was **Carried**

FOR VOTE - Unanimous

13 [CNR-CM] Biodiversity Grant Program

77

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that Council approves the proposed Biodiversity Grant to assist the honours student undertake key threatened species research listed in the table contained within this report.

The Motion was **Carried**

FOR VOTE - Unanimous

14 [CNR-CM] Action on the Ground - AOTGR1-66 - Increasing Soil Carbon in Tweed Valley Farmland

Cr W Polglase left the meeting at 07:40 PM

78

**Cr K Milne
Cr M Armstrong**

RESOLVED that Council approves the Action on the Ground Project works on private property as listed within the body of this report.

The Motion was **Carried**

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

15 [CNR-CM] Parkes Lane Terranora Proposed Partial Sewerage Scheme

79

**Cr K Milne
Cr M Armstrong**

RESOLVED that Council adopts the proposed charge of \$4320 for the Parkes Lane, Terranora Partial Sewerage Scheme.

The Motion was **Carried**

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

16 [CNR-CM] Lease to NBN Co Limited - Part Lot 1 DP 1069562 Duranbah Road Duranbah

80

Cr K Milne
Cr M Armstrong

RESOLVED that:

1. Council approves entering into a lease with NBN Co Limited for an area of approximately 60m² at the Duranbah Reservoirs at Duranbah being part of Lot 1 in DP 1069562 for a term of five years with three options for five years, commencing with a rental of \$10,000 per annum compounding annually by 2.5% subject to development consent being issued for the proposed infrastructure and subject to the terms and conditions of the lease being finalised.
2. All necessary documentation be executed under the Common Seal of Council.

The Motion was **Carried**

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

17 [CNR-CM] Proposed Sale of Council Property - 1 Nullum Street Murwillumbah

81

Cr K Milne
Cr M Armstrong

RESOLVED that Council advertises its intention to dispose of 1 Nullum Street, Murwillumbah comprised in Lot A DP 174482 in accordance with the Disposal of Land Policy.

The Motion was **Carried**

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

18 [CNR-CM] Contract EC2012-273 Proposed Extension of Murwillumbah Historic Museum

82

**Cr K Milne
Cr M Armstrong**

RESOLVED that:

1. Council awards tender EC2012-273 for the Proposed Extensions to Murwillumbah Historic Museum to Ware Building Pty Ltd for the amount of \$1,586,830.00 (exclusive of GST).
2. The General Manager be given delegated authority to approve variations up to \$150,000 above the initial tender price and those variations reported to Council following completion of works.
3. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains:
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret.

The Motion was **Carried**

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

19 [CNR-CM] EC2012-251 Margaret Olley Tweed River Art Gallery Extension

83

**Cr K Milne
Cr M Armstrong**

RESOLVED that Council notes this report and awaits the final submission of the tender report for EC2012-251 Margaret Olley Tweed River Art Gallery Extension.

The Motion was **Carried**

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

LATE ITEM

84

**Cr K Milne
Cr M Armstrong**

RESOLVED that Item a19 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

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

a19 [CNR-CM] EC2012-251 Margaret Olley Tweed River Art Gallery Extension

85

**Cr K Milne
Cr M Armstrong**

RESOLVED that:

1. Council awards the Contract EC2012-251 Margaret Olley Tweed River Art Gallery Extensions to Alder Constructions Pty Ltd for the amount of \$2,725,152.00 (inc GST) subject to a financial assessment of Alder Constructions Pty Ltd.
2. The General Manager be given delegated authority to approve variations up to \$150,000 above the initial tender price and those variations reported to Council following completion of works.
3. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret.

The Motion was **Carried**

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

20 [CNR-CM] Tweed River Art Gallery - Expressions of Interest to Operate Cafe

86

**Cr K Milne
Cr M Armstrong**

RESOLVED that Council approves the commencement of a selective tendering process for the operation of the café at the Tweed River Art Gallery by advertisement seeking expressions of interest.

The Motion was **Carried**

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

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

21 [EO-CM] Naming of Park - Arthur Holmes OAM Memorial Garden

87

**Cr K Milne
Cr M Armstrong**

RESOLVED that Council names the garden area fronting the Murwillumbah Civic Centre Auditorium the 'Arthur Holmes OAM Memorial Garden' and erects signage.

The Motion was **Carried**

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

22 [EO-CM] Naming of Park - Clarrie Purnell Park

88

**Cr K Milne
Cr M Armstrong**

RESOLVED that Council names the park adjacent to the Condong boat ramp Clarrie Purnell Park and erects signage.

The Motion was **Carried**

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

23 [EO-CM] Tree Poisoning - Terrace Street, Kingscliff

89

**Cr K Milne
Cr M Armstrong**

RESOLVED that when removing the poisoned Forest Red Gum in Terrace Street Kingscliff, several metres of the trunk are left in-situ and a sign be mounted on the trunk advising:



The Motion was **Carried**

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

24 [EO-CM] Murwillumbah Airfield - Lease to Linmil Pty Ltd

90

**Cr K Milne
Cr M Armstrong**

RESOLVED that :

1. Council approve entering into a lease with Linmil Pty Ltd for hangars 3 and 7 at the Murwillumbah Airfield for two consecutive terms of 5 years with a commencing rental to reflect the annual CPI increase from the current rental paid; and
2. All documentation be executed under the Common Seal of Council.

The Motion was **Carried**

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

25 [EO-CM] Cudgera Avenue and Tweed Coast Road, Pottsville - Dedication of Council Land as Road

91

**Cr K Milne
Cr M Armstrong**

RESOLVED that:

1. Council dedicates by Gazettal notice Lot 530 in DP 844174 and Lot 532 in DP851530 as Public Road pursuant to Section 10 of the Roads Act, 1993.
2. All necessary documentation be executed under the Common Seal of Council.

The Motion was **Carried**

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

REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

26 [TCS-CM] Dates and Times of Council Meetings

92

**Cr M Armstrong
Cr C Byrne**

RESOLVED that Council determines the meeting, community access and workshop schedule and the associated timeframes as follows and incorporates into the Code of Meeting Practice and advertises these amendments accordingly:

Part 1.1.2 – Frequency of Council Meetings

Council Meetings will be normally conducted on the third Thursday of the month, commencing at 4.45pm which may be preceded by any Reserve Trust meeting(s) – if necessary, which commence at 4.30pm.

Part 1.2 – Notice of Meetings

Each Councillor must receive, on the Tuesday of the week preceding the Council meeting, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting.

Part 1.4.1.1- Time of Availability of Business Paper

A copy of the Meeting Agenda is to be placed in the three (3) Council Libraries and is available to the public and media as nearly as possible to the time they are available to Councillors, including electronic copies on Council's Web Site from 8.00pm on the Tuesday of the week preceding the Council meeting.

Part 4.1.2 - Time Limits on Council Meetings

- (a) An Ordinary, Extraordinary or Special Meeting, which commences at 4.45pm, will be scheduled to conclude at 10.00pm (with a meal break between 6.30pm and 7.15pm).
- (b) If the business of the meeting is unfinished at 10.00pm, a resolution of the Council will be necessary to extend the time of the meeting.
- (c) If a resolution to extend the meeting is lost, the meeting will be adjourned to a date and time determined at the meeting.
- (d) If the meeting is adjourned to a different date or time, each Councillor and the public (where practicable) should be notified of the new date and time.

Part 13.1- Community Access

- 3. A Community Access session will take place between 4.30pm and 5.30pm on the Thursday of the week preceding the Council Meeting and will be held in the Council Chambers, Murwillumbah.

The Motion was **Carried**

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

Cr W Polglase returned from temporary absence at 07:42 PM

Cr G Bagnall left the meeting at 07:42 PM

27 [TCS-CM] Code of Meeting Practice Version 2.3

93

Cr C Byrne
Cr M Armstrong

RESOLVED that Council adopts the Code of Meeting Practice Version 2.3.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr G Bagnall

28 [TCS-CM] Model Code of Conduct and Procedures

94

Cr C Byrne
Cr P Youngblutt

RESOLVED that Council adopts the:

1. Model Code of Conduct for Local Councils in NSW March 2013 as its Model Code of Conduct Version 1.9 with the enhancements that were previously included in the current Code of Conduct for Tweed Shire Council, being:
 - a. *Alcohol and other Drugs*, formerly Item 6.14 new Part 7.23;
 - b. *Meeting with Developers and Consultants*, formerly Item 9.9 new Part 6.8; and
 - c. *Public comment by Council Officials*, formerly Item 10.22 new Part 6.9.
2. Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW March 2013 to be known as Procedure Administration of the Model Code of Conduct Version 1.0.
3. Deletion and removal of the Conduct Review Committee/Sole Reviewer Policy Version 1.1 from the list of local Council Policies.
4. Calling of Expressions of Interest for a Panel of Conduct Reviewers in accordance with the requirements of the Procedure Administration of the Model Code of Conduct Version 1.0.

Cr G Bagnall returned from temporary absence at 07:43 PM

The Motion was **Carried**

***FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr K Milne, Cr G Bagnall
AGAINST VOTE - Cr M Armstrong, Cr B Longland***

***A NOTICE OF RESCISSION HAS BEEN SUBMITTED ON THIS MOTION, BY COUNCILLORS
LONGLAND, ARMSTRONG AND MILNE.***

29 [TCS-CM] Better, Stronger Local Government - The 'Case for Sustainable Change' Paper November 2012 - Submission to Independent Local Government Review Panel

95

**Cr P Youngblutt
Cr W Polglase**

RESOLVED that this report and the completed feedback survey form (Attachment 2) be submitted as Council's response to the Independent Local Government Review Panel's Better, Stronger Local Government: The Case for Sustainable Change paper dated November 2012.

The Motion was **Carried**

FOR VOTE - Unanimous

30 [TCS-CM] Commonwealth Financial Assistance Grants (FAGs)

96

Cr P Youngblutt
Cr K Milne

RESOLVED that Council replies to the Commonwealth Grants Commission Issues Paper as outlined in the report which in summary:-

1. Recognises in broad terms the objectives of the Act as being conceptually consistent with the National Principles.
2. Supports the continuation of the Financial Assistance Grants as untied.
3. Supports the abolition of minimum Financial Assistance Grants.
4. Acknowledges that those councils in remote and regional communities have a greater need for Financial Assistance Grants.
5. Expresses Council's disappointment that the terms of reference specifically excluded increased funding to local governments through the Financial Assistance Grants as well as the relative distribution between states.

The Motion was **Carried**

FOR VOTE - Unanimous

31 [TCS-CM] Pecuniary Interest Returns for newly elected councillors

97

Cr M Armstrong
Cr P Youngblutt

RESOLVED that the Pecuniary Interest Returns for newly elected Councillors, as tabled, be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

32 [TCS-CM] Corporate Quarterly Report - 1 October to 31 December 2012

98

Cr M Armstrong
Cr P Youngblutt

RESOLVED that Council endorses the Corporate Quarterly Report as at 31 December 2012.

The Motion was **Carried**

FOR VOTE - Unanimous

33 [TCS-CM] Delivery Program Six Monthly Progress Report 1 July to 31 December 2012

99

Cr M Armstrong
Cr P Youngblutt

RESOLVED that Council notes the Six Monthly Progress Report detailing principle activities from the 2011/2015 Delivery Program that have not met expected performance targets for the period 1 July to 31 December 2012.

The Motion was **Carried**

FOR VOTE - Unanimous

34 [TCS-CM] Quarterly Budget Review - December 2012

100

Cr M Armstrong
Cr P Youngblutt

RESOLVED that the:

1. Quarterly Budget Review Statement as at 31 December 2012 be adopted.
2. Expenditure and income, as summarised below and detailed within the report, be voted and adjusted in accordance with the revised total expenditure and income for the year ending 30 June 2013.

Description	Change to Vote	
	Deficit	Surplus
General Fund		
<u>Expenses</u>		
Employee costs	0	109,568
Materials & Contracts	553,707	0
Interest	0	0
Other Operating costs	48,781	0
Capital	126,898	0
Loan Repayments	0	0
Transfers to Reserves	50,000	0
	<u>779,386</u>	<u>109,568</u>
<u>Income</u>		
Rates and Annual Charges	0	0
Interest revenue	0	83,068
Operating Grants & Conts	166,712	0
Capital Grants & Conts	0	0
User Charges & Fees	0	0
Other Operating Revenue	0	0
Loan Funds	0	54,933
Recoupments	0	268,549
Transfers from Reserves	0	119,980
Asset Sales	0	310,000
	<u>166,712</u>	<u>836,530</u>
Net Surplus/(Deficit)		<u>0</u>
	Deficit	Surplus
Sewer Fund		
<u>Expenses</u>		
Employee costs	0	0
Materials & Contracts	266,049	0
Interest	0	0
Other Operating costs	0	0
Capital	5,661,528	0
Loan Repayments	0	0
Transfers to Reserves	0	497,199
	<u>5,927,577</u>	<u>497,199</u>
<u>Income</u>		
Rates and Annual Charges	0	0
Interest revenue	0	1,266,270
Operating Grants & Conts	0	0
Capital Grants & Conts	0	21,892
User Charges & Fees	0	0
Other Operating Revenue	0	0
Loan Funds	0	0
Recoupments	0	349,329
Transfers from Reserves	0	3,792,887
Asset Sales	0	0
	<u>0</u>	<u>5,430,378</u>
Net Surplus/(Deficit)		<u>0</u>
Water Fund		

Description	Change to Vote	
<u>Expenses</u>		
Employee costs	0	0
Materials & Contracts	944,184	0
Interest	0	0
Other Operating costs	0	0
Capital	1,951,612	0
Loan Repayments	0	0
Transfers to Reserves	0	2,163,848
	<u>2,895,796</u>	<u>2,163,848</u>
<u>Income</u>		
Rates and Annual Charges	0	0
Interest revenue	0	345,227
Operating Grants & Conts	0	0
Capital Grants & Conts	71,633	0
User Charges & Fees	0	0
Other Operating Revenue	0	0
Loan Funds	0	0
Recoupments	0	1,855,966
Transfers from Reserves	1,397,612	0
Asset Sales	0	0
	<u>1,469,245</u>	<u>2,201,193</u>
Net Surplus/(Deficit)		<u>0</u>

The Motion was **Carried**

FOR VOTE - Unanimous

35 [TCS-CM] Legal Services Register as at 31 December 2012

Cr C Byrne declared a pecuniary interest in this item, left the Chamber at 07:52 PM and took no part in the discussion or voting. The nature of the interest is that Cr Bryne is a Director a company that received legal costs from council.

101

**Cr M Armstrong
Cr P Youngblutt**

RESOLVED that Council receives and notes the Legal Services Register as at 31 December 2012.

The Motion was **Carried**

***FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr C Byrne***

Cr C Byrne returned from temporary absence at 07:53 PM

36 [TCS-CM] Complaint Analysis Report 1 October to 31 December 2012

Cr P Youngblutt left the meeting at 07:53 PM

102

Cr M Armstrong
Cr W Polglase

RESOLVED that Council receives and notes the Complaints Analysis Report for the period 1 October to 31 December 2012 for consideration by Council.

The Motion was **Carried**

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

37 [TCS-CM] Compliments and Complaints Handling Policy Version 1.4

103

Cr M Armstrong
Cr W Polglase

RESOLVED that Council in accordance with Section 161 (1) (a) of the Local Government Act 1993 adopts the Compliments and Complaints Handling Policy Version 1.4 without amendment.

The Motion was **Carried**

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

38 [TCS-CM] Secondary Employment Policy, Version 1.3

104

Cr M Armstrong
Cr W Polglase

RESOLVED that Council adopts the Secondary Employment Policy, Version 1.3 and in accordance with Section 161(2) of the Local Government Act 1993, without public exhibition.

The Motion was **Carried**

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

39 [TCS-CM] Monthly Investment and Section 94 Developer Contributions Report for the Period Ending 31 January 2013

This item was dealt with at Minute No 106.

LATE ITEM

105

**Cr M Armstrong
Cr W Polglase**

RESOLVED that Item a39 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

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

a39 [TCS-CM] Monthly Investment and Section 94 Developer Contributions Report for the Period Ending 31 January 2013

106

**Cr M Armstrong
Cr W Polglase**

RESOLVED that in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at period ending 31 January 2013 totalling \$158,822,361 be received and noted.

The Motion was **Carried**

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

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

40 [SUBCOM] Reports from Subcommittees and/or Working Groups

107

**Cr M Armstrong
Cr W Polglase**

RESOLVED that the Reports from Subcommittee and/or Working Groups be received and noted:

- Minutes of the Sports Advisory Committee Meeting held Monday 3 December 2012 (ECM 62700719).

The Motion was **Carried**

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

41 [SUB-EAC] Minutes of the Equal Access Advisory Committee Meeting held Wednesday 22 November 2012

108

Cr M Armstrong
Cr W Polglase

RESOLVED that the:

1. Minutes of the Equal Access Advisory Committee Meeting held Wednesday 22 November 2012 be received and noted; and
2. The Executive Management Team's recommendations be adopted as follows:

2. *Pedestrian Access along Tumbulgum Road between Murwillumbah Library and Coolamon Cultural Centre*

That Council notes the Equal Access Advisory Committee's recommendation for Council to consider alternative strategies to ensure public safety such as one way traffic on this section of Tumbulgum Road until a permanent solution can be found.

The Motion was **Carried**

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

ORDERS OF THE DAY

42 [NOM-Cr G Bagnall] Destination Tweed

Cr P Youngblutt returned from temporary absence at 07:56 PM

109

Cr G Bagnall
Cr K Milne

RESOLVED that Council requests a report from Destination Tweed regarding the benefits and constraints of Tweed Shire joining the RV friendly towns initiative.

The Motion was **Carried**

FOR VOTE - Unanimous

43 [NOM-Cr K Milne] Urban Land Release Strategy

110

Cr K Milne
Cr G Bagnall

RESOLVED that Council holds a meeting with the Pottsville, Mooball and Burringbar community to advise of Council's Urban Land Release Strategy and the potential rezonings in their areas.

The Motion was **Carried**

FOR VOTE - Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland

AGAINST VOTE - Cr P Youngblutt

44 [NOM-Cr K Milne] Fingal Road

111

Cr K Milne
Cr G Bagnall

PROPOSED that Council defers the upgrade of Fingal Road Stage 4 and undertakes community consultation with a report back to the next Council meeting.

The Motion was **Lost**

FOR VOTE - Cr K Milne, Cr G Bagnall

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr B Longland

QUESTIONS ON NOTICE

45 [QON-Cr G Bagnall] Eviron Road Quarry

QUESTION ON NOTICE:

Councillor G Bagnall asked what was the impact of the recent flood on the potential new tip site at the Eviron Road quarry? How will this size flood and predicted larger floods effect the tip site? Would contamination find its way into the river system?

The Director Community and Natural Resources advised that during the recent significant rain event (26 - 28 January) some waters entered the toe of the existing Quirks Quarry from the sugar cane fields to the north. The engineering design for the Quirks Quarry Landfill has been modelled to withstand a 1 in 100 year flood event. The proposed design incorporates a perimeter bund along the northern and western edges of the landfill at an average height of 6.5RL. The flood level for this area in a 1 in 100 year flood is 3.9RL. This protective bund is designed to prevent inundation of the landfill from any flood waters. In addition the floor of

the existing Quirks Quarry will be raised before the EPA approved protective layers of clay and engineered synthetic liners are put in place. The design of the Quirks Quarry Landfill will prevent flood waters coming into contact with wastes within the landfill and therefore prevent any contamination being carried off-site from the contained landfill system.

CONFIDENTIAL COMMITTEE

112

Cr P Youngblutt
Cr C Byrne

RESOLVED that Council resolves itself into a Confidential Committee in accordance with Section 10A(2) of the Local Government Act 1993 (as amended) and that the press and public be excluded from the whole of the Committee Meeting, because, in the opinion of the Committee, publicity of the proceedings of the Committee would be prejudicial to the public interest, by reasons of the confidential nature of the business to be transacted.

The Motion was **Carried**

FOR VOTE - Unanimous

The General Manager reported that the Confidential Committee had excluded the press and public from the whole of the Committee Meeting because, in the opinion of the Committee, publicity of the proceedings of the Committee would be prejudicial to the public interest, by reason of the confidential nature of the business to be transacted, and made the following recommendations to Council:

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

1 [EO-CM] 23 Honeyeater Circuit, South Murwillumbah - Records and Storage Facility

REASON FOR CONFIDENTIALITY:

The information within this report contains data on expected rentals that should not be divulged prior to advertising the lease.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

C 6

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that:

1. Council accepts the Expression of Interest from Ray White Commercial Coolangatta/Tweed Heads for the lease management rights of Unit 1/23 Honeyeater Circuit, South Murwillumbah and to enter into a lease for the Unit on terms to be negotiated through the agent; and
2. Council executes all documentation under the Common Seal of Council.

The Motion was **Carried**

FOR VOTE - Unanimous

113

**Cr C Byrne
Cr W Polglase**

RESOLVED that the recommendations of the Confidential Committee be adopted.

The Motion was **Carried**

FOR VOTE - Unanimous

There being no further business the Meeting terminated at 8.22pm.



Minutes of Meeting Confirmed by Council

at the

Council Meeting held on xxx

Chairman