



**TWEED**  
SHIRE COUNCIL

**Mayor:** Cr B Longland

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

# Minutes

## **Planning Committee Meeting 5 June 2014**

held at Murwillumbah Cultural and Civic Centre  
commencing at 5.00pm

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 79C**  
**79C Evaluation**

(1) Matters for consideration-general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
- (iii) any development control plan, and
- (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979 ),

that apply to the land to which the development application relates,

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

**Note:** See section 75P (2) (a) for circumstances in which determination of development application to be generally consistent with approved concept plan for a project under Part 3A.

The consent authority is not required to take into consideration the likely impact of the development on biodiversity values if:

- (a) the development is to be carried out on biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995 ), or
- (b) a biobanking statement has been issued in respect of the development under Part 7A of the Threatened Species Conservation Act 1995 .

(2) Compliance with non-discretionary development standards-development other than complying development If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:

- (a) is not entitled to take those standards into further consideration in determining the development application, and
- (b) must not refuse the application on the ground that the development does not comply with those standards, and
- (c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,

and the discretion of the consent authority under this section and section 80 is limited accordingly.

- (3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:
  - (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 80 is not limited as referred to in that subsection, and
  - (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

**Note:** The application of non-discretionary development standards to complying development is dealt with in section 85A (3) and (4).

- (4) Consent where an accreditation is in force A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.
- (5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).
- (6) Definitions In this section:
  - (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and
  - (b) "non-discretionary development standards" means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

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The Meeting commenced at 5.00pm.

### **IN ATTENDANCE**

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

Also present were Mr Troy Green (General Manager), Mr Michael Chorlton (Acting Director Corporate Services), Mr Danny Rose (Planning and Infrastructure Engineer), Mr Vince Connell (Director Planning and Regulation), Mr Stewart Brawley (Acting Director Community and Natural Resources), Mr Shane Davidson (Executive Officer), Mr Peter Brack (Corporate Compliance Officer) and Ms Ann Mesic (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 read by the Mayor.

### **RECORD OF MINUTES**

Nil.

### **APOLOGIES**

**Cr P Youngblutt**

Attendee Cr P Youngblutt has informed the General Manager that his absence is caused by illness.

**P 62**

**Cr B Longland**  
**Cr M Armstrong**

**RESOLVED** that the apology of Cr P Youngblutt be accepted and the necessary leave of absence be granted.

The Motion was **Carried**

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

## **DISCLOSURE OF INTEREST**

**Cr Milne** declared a Non-Pecuniary, Non-Significant conflict of interest in Item a8.

The nature of this interest is that a defamation claim by Mr Ell of LEDA Holdings, the owner of the Kings Forest and Cobaki developments, has been awarded against me for \$15,000.

Cr Milne will remain in the Chambers during discussion and voting on the merits of each application.

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

Nil.

## **SUSPENSION OF STANDING ORDERS**

**P 63**

**Cr B Longland**  
**Cr G Bagnall**

**RESOLVED** that Standing Orders be suspended to deal with Items 9-12 of the Agenda.

The Motion was **Carried**

**FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland**  
**AGAINST VOTE - Cr W Polglase, Cr C Byrne**  
**ABSENT. DID NOT VOTE - Cr P Youngblutt**

**9 [NOR-PC] Development Application DA13/0591 - Erection of Four Townhouses at Lots 25 and 26 Section 5 DP 4043 Nos. 36 and 38 Enid Street, Tweed Heads**

## **NOTICE OF RESCISSION:**

**P 64**

**Cr B Longland**  
**Cr G Bagnall**

**RECOMMENDED** that the Council resolution from the Planning Committee Meeting held on 1 May 2014, Minute No 254 Item No 14 being:

*"... that Development Application DA13/0591 for the erection of four townhouses at Lots 25 and 26 Section 5 DP 4043 Nos. 36-38 Enid Street, Tweed Heads:*

- a. grant in principle support; and*
- b. the Director Planning and Regulation seeks better outcomes on design including but not limited to concerns raised in the current Council report."*

**be rescinded.**

The Motion was **Carried**

**FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland**

**AGAINST VOTE - Cr W Polglase, Cr C Byrne**

**ABSENT. DID NOT VOTE - Cr P Youngblutt**

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**10 [NOM-PC] Development Application DA13/0591 - Erection of Four Townhouses at Lots 25 and 26 Section 5 DP 4043 Nos. 36 and 38 Enid Street, Tweed Heads**

**NOTICE OF MOTION:**

**P 65**

**Cr B Longland**

**Cr G Bagnall**

**RECOMMENDED** that Development Application DA13/0591 for the erection of four townhouses at Lots 25 and 26 Section 5 DP 4043 Nos. 36-38 Enid Street, Tweed Heads be refused for the following reasons:

1. In accordance with Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed development is not considered to be compliant with Environmental Planning Instruments.

It is Council's view that the proposed development is inconsistent with the vision and objectives contained within:

The Tweed City Centre LEP 2012:

- Clause 1.2: Aims of this plan - – proposed density of the site is not consistent with the desired future character of the area
- Clause 2.3: Land Use Table - the proposal does not meet the requirements for medium density residential development within the context of the locality.
- Clause 4.3: Height of Buildings - the proposal does not maximise density on the site commensurate with the objectives of the clause.
- Clause 4.4: Floor Space Ratio - the proposal does not incorporate increased building height and site amalgamation at a key location in the area of Tweed City Centre.

2. Pursuant to Section 79C (1) (c) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed site is not considered suitable for the proposed development.

The proposal represents a significant variation to building height and floor space ratio for the locality as prescribed within the Tweed City Centre Local Environmental Plan 2012.

The proposal is inconsistent with the future desired character of the City Centre Support Precinct as defined within Development Control Plan B2 – Tweed Heads.

3. In accordance with Section 79C (1) (e) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed development is not considered to be in the public interest.

It is in the broader general public interest to enforce the standards contained within the Development Control Plan 2008 and Tweed City Centre LEP 2012 specifically as it relates to residential development controls and density objectives of the R3 Medium Density Residential zone.

The Motion was **Carried**

**FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland**

**AGAINST VOTE - Cr W Polglase, Cr C Byrne**

**ABSENT. DID NOT VOTE - Cr P Youngblutt**

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- 11 [NOR-PC] Development Application DA13/0594 for a Detached Dual Occupancy at Lot 24 Section 5 DP 4043 No 40 Enid Street, Tweed Heads

**NOTICE OF RESCISSION:**

**P 66**

**Cr B Longland  
Cr M Armstrong**

**RECOMMENDED** that the Council resolution from the Planning Committee meeting held on Thursday 1 May 2014 at Minute No 254, Item No 13 being:

*"... that Development Application DA13/0594 for a detached dual occupancy at Lot 24 Section 5 DP 4043 No. 40 Enid Street, Tweed Heads:*

- a. grant in principle support; and*
- b. the Director Planning and Regulation seeks better outcomes on design including but not limited to concerns raised in the current Council report."*

**be rescinded.**



The Motion was **Carried**

**FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland**

**AGAINST VOTE - Cr W Polglase, Cr C Byrne**

**ABSENT. DID NOT VOTE - Cr P Youngblutt**

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**12 [NOM-PC] Development Application DA13/0594 for a Detached Dual Occupancy at Lot 24 Section 5 DP 4043 No. 40 Enid Street, Tweed Heads**

**NOTICE OF MOTION:**

**P 67**

**Cr B Longland  
Cr M Armstrong**

**RECOMMENDED** that Development Application DA13/0594 for a detached dual occupancy at Lot 24 Section 5 DP 4043 No. 40 Enid Street, Tweed Heads be refused for the following reasons:

1. In accordance with Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed development is not considered to be compliant with Environmental Planning Instruments.

It is Council's view that the proposed development is inconsistent with the vision and objectives contained within:

The Tweed City Centre LEP 2012:

- Clause 1.2: Aims of this plan - – proposed density of the site is not consistent with the desired future character of the area
  - Clause 2.3: Land Use Table - the proposal does not meet the requirements for medium density residential development within the context of the locality.
  - Clause 4.3: Height of Buildings - the proposal does not maximise density on the site commensurate with the objectives of the clause.
  - Clause 4.4: Floor Space Ratio - the proposal does not incorporate increased building height and site amalgamation at a key location in the area of Tweed City Centre.
2. Pursuant to Section 79C (1) (c) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed site is not considered suitable for the proposed development.

The proposal represents a significant variation to building height and floor space ratio for the locality as prescribed within the Tweed City Centre Local Environmental Plan 2012.

The proposal is inconsistent with the future desired character of the City Centre Support Precinct as defined within Development Control Plan B2 – Tweed Heads.

3. In accordance with Section 79C (1) (e) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed development is not considered to be in the public interest.

It is in the broader general public interest to enforce the standards contained within the Development Control Plan 2008 and Tweed City Centre LEP 2012 specifically as it relates to residential development controls and density objectives of the R3 Medium Density Residential zone.

The Motion was **Carried**

***FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland  
AGAINST VOTE - Cr W Polglase, Cr C Byrne  
ABSENT. DID NOT VOTE - Cr P Youngblutt***

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## **RESUMPTION OF STANDING ORDERS**

**P 68**

**Cr B Longland  
Cr M Armstrong**

**RESOLVED** that Standing Orders be resumed.

The Motion was **Carried**

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

## **SCHEDULE OF OUTSTANDING RESOLUTIONS**

- 1 **[SOR-PC] Schedule of Outstanding Resolutions - Planning Committee**

That the Schedule of Outstanding Resolutions was received and noted.

## **REPORTS THROUGH THE GENERAL MANAGER**

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

- 2 **[PR-PC] Development Application DA13/0307 for Alterations and Additions to Existing Footpath Trading/Dining Area at Marine Parade, Kingscliff**

**P 69**

**Cr W Polglase  
Cr K Milne**

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**RECOMMENDED** that Development Application DA13/0307 for alterations and additions to existing footpath trading/dining area at Marine Parade, Kingscliff be approved subject to the following conditions:

### DEFERRED COMMENCEMENT

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within 6 months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 95 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

### SCHEDULE "A"

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 95 of the Regulations as amended.

1. The applicant shall provide amended plans demonstrating the provision of a minimum 2.5m wide footpath clear of all obstructions over the entire site.

### SCHEDULE B

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

### GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos WD03 Version f, WD07 Version f , prepared by iform building designs and dated May 2013 except where varied by the conditions and any approved plans as required by Schedule A.
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. No advertising is permitted on the awning/walls/partitions of the proposed dining area. [GEN0205]
5. The proposal is to comply at all times with Tweed Shire Councils adopted Footpath Dining Policy except where varied by this approval. [GEN0225]

6. The display of goods are not permitted without the written approval of the General Manager or delegate.

[GENNS01]

7. Maintenance of the outdoor dining structures will be the responsibility of the applicant, or his successor in title, in accordance with Section 142 Roads Act 1993.

#### PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. 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]

9. 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]

10. Design plans submitted with the Construction Certificate application shall include the following amendments:

- a) All access pathways shall be designed in accordance with the Australian Standard 1428.1 - 2009 Design for Access and Mobility;
- b) All level changes must be eliminated between the access pathways and the outdoor dining areas for each tenancy;
- c) Undercover footpath areas must be lit to AS1158 from dusk to dawn;
- d) The southern access pathway shall be extended along the kerb line to meet the Marine Parade footpath;
- e) All designated footpath and access pathway areas must remain free from obstruction at all times;
- f) Footpath levels are to be provided along the interface with the raised dining blisters, to demonstrate no water ponding within the footpath area. Where ponding may occur, additional footpath drainage must be provided, discharging to the Council system;

- g) Detail maintenance access to all public stormwater drainage services within the dining blisters.

#### PRIOR TO COMMENCEMENT OF WORK

11. The erection of a building in accordance with a development consent must not be commenced until:
- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
  - (b) the person having the benefit of the development consent has:
    - (i) appointed a principal certifying authority for the building work, and
    - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - (c) the principal certifying authority has, no later than 2 days before the building work commences:
    - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
    - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
    - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
    - (ii) notified the principal certifying authority of any such appointment, and
    - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.
- [PCW0215]
12. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.
- [PCW0225]
13. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
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- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

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

[PCW0255]

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

[PCW0665]

#### DURING CONSTRUCTION

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

[DUR0005]

16. 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]

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

[DUR0245]

18. 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]

19. 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]

20. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal

Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

21. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.

[DUR0415]

22. 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]

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

[DUR1725]

24. 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]

25. 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]

26. All stormwater from roofed and paved areas are to be connected directly into road drainage pits where available, kerb and gutter drainage canal or inter allotment drainage line where provided.

All drainage systems shall comply with AS 3500.

[DUR2305]

#### PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

27. 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]

28. 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]

29. A structural engineers' certificate is to be submitted for the existing structures within the road reserve approved under DA02/1769 with any application for an occupation certificate under this consent.

[POCNS01]

## USE

30. 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]

31. Footpath dining activities shall not be carried out unless a Footpath Dining License Agreement has been approved by the General Manager or his delegate. Footpath dining activities shall be restricted to the approved footpath dining area and carried out in accordance with Councils adopted Footpath Dining Policy.

[USE1105]

32. A minimum 2.5 metre wide clear unobstructed pedestrian pathway shall be maintained on the footpath.

33. The approved structures located within the road reserve are to be kept in good order and repair at all times.

[USENS01]

The Motion was **Carried**

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

**A NOTICE OF RESCISSION HAS BEEN RECEIVED ON THIS ITEM FROM COUNCILLORS C BYRNE, M ARMSTRONG AND W POLGLASE.**

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- 3 [PR-PC] Development Application DA13/0745 for Alterations to the Existing Kingscliff North Holiday Park including Reconfiguration of Sites, Demolition Work and Associated Earthworks as well as Consent for the Overall Use of the Site as a Caravan Park at Part Lot 2 DP 1122062 No. 131 Marine Parade, Kingscliff**

**P 70**

**Cr M Armstrong**  
**Cr K Milne**

**RECOMMENDED** that Development Application DA13/0745 for Alterations to the Existing Kingscliff North Holiday Park including Reconfiguration of Sites, Demolition Work and Associated Earthworks as well as Consent for the Overall Use of the Site as a Caravan Park at Part Lot 2 DP 1122062 No. 131 Marine Parade, Kingscliff be approved subject to the following conditions:



## GENERAL

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

- Existing Site Plan (Drawing No. SK-02, Issue A), dated 25 October 2013;
- Site Demolition and Earthworks Plan (Drawing No. SK-03, Issue A), dated 25 October 2013;
- Proposed Site Plan (Drawing No. SK-04, Issue B), dated 21 November 2013, and;
- Site Details (Drawing No. SK-05, Issue B), dated 25 October 2013,

all prepared by Tweed Shire Council Design Unit, 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. 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 Engineering Division for approval of such works.

[GEN0155]

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

[GEN0290]

5. Any foreshore area disturbed by works carried as part of this consent are to be rehabilitated to the satisfaction of Council's General Manager or delegate.

6. Access across foreshore areas is to be confined to the existing specified points. This application is not to generate any further accessways across foreshore areas.

[GENNS01]

7. This consent does not provide for a lesser distance of 10m of a moveable dwelling site or camp site boundary to a community building or facility under the provisions of Clause 88 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. Such approval shall be the subject of assessment under the provisions of Section 68 of the Local Government Act 1993.

8. This consent does not amend or modify the current Sec 68 Approval issued under the provisions of the Local Government Act 1993. A further approval of the General Manager or delegate shall be required to be obtained and shall include but not be limited to the provisions of Part 3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005, noting the site is within a coastal erosion zone.

9. The caravan park and camping ground shall generally be designed, constructed maintained and operated in general accordance with the provisions of Part 3, Division

3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 except where varied by these conditions of consent.

[GENNS02]

10. The number of approved sites in the park is limited to 34 short term and 15 camp sites.

[GENNS03]

10.1 A representative of the Tweed Byron Local Aboriginal Land Council shall be present on site to monitor ground disturbance initially and over the course of the project.

#### PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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. 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 subdivision works, 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]

13. 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]

14. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works

including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to the issue of a construction certificate.

[PCC1195]

15. If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.

The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.

[PCC1325]

#### PRIOR TO COMMENCEMENT OF WORK

16. The proposed earthworks and internal road upgrade in accordance with a development consent must not be commenced until:

- (a) a construction certificate for the work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and

- (a) 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

- (b) 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

- (c) 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]

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

[PCW0225]

18. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one closet for every 15 persons or part of 15 persons employed at the site. Each toilet provided must be:
- (a) a standard flushing toilet connected to a public sewer, or
  - (b) if that is not practicable, an accredited sewage management facility approved by the council
- [PCW0245]
19. 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]

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

[PCW0665]

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 the approved 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]

22. 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]

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23. Plan Drawing No. SK-50 and Landscaping Concept Plan prepared by Plummer & Smith dated 28 November 2013 is not approved for the purposes of the provisions of Clause 88 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. An amended Community Map shall be submitted to the satisfaction of the General Manager or delegate.

[PCWNS01]

#### DURING CONSTRUCTION

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

[DUR0005]

25. 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]

26. 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]

27. 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 development application)

[DUR0375]

28. Building materials used in development works on site are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

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

[DUR0405]

30. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.

[DUR0415]

31. 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, Work Health and Safety Regulation 2011.

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]

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

Please note timber retaining walls are not permitted.

[DUR0835]

33. 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]

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

[DUR1705]

35. 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]

36. 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]

37. 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]

38. 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 Plumbing Code of Australia and AS/NZS 3500.

[DUR2495]

39. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR2535]

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

[DUR2545]

41. 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:-

- \* 45°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]

42. During excavation and removal of the sand mounds the sand material shall be monitored for naturally occurring radioactive material. Should levels exceed the Investigation Trigger Level Criteria of  $0.35\mu\text{Sv hr}^{-1}$  excavations shall cease immediately. Works are not permitted to recommence until adequate subsurface site investigations are completed and a Remediation Action Plan, to the satisfaction of the General Manager or delegate, has been submitted where required.

43. Following the completion of any excavation works greater than 300mm in depth below the existing surface levels including the removal of the sand mounds, and once all services have been installed, a final site validation survey shall be completed and reported to the satisfaction of the General Manager or delegate to demonstrate compliance with an Action Level criteria of  $0.7\mu\text{Sv hr}^{-1}$  or less at 1m above finished ground level.

44. No excavated soil obtained at greater than 300mm in depth, shall be disposed of off the site or relocated within the site where the radiation level of that material is above

0.7 $\mu$ Sv hr<sup>-1</sup>. Radiation levels of any materials proposed to be removed from the site shall be monitored and recorded by an appropriately qualified person. Record of the monitoring shall be maintained on site and made available to authorised officers of Tweed Shire Council on request.

[DURNS01]

#### PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

45. A satisfactory final inspection, where applicable, is to be carried out by Council prior to occupation or use commencing.

[POC0255]

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

[POC1045]

#### USE

47. 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]

48. 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]

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

1. The development proposal is to comply with the layout identified on the drawings prepared by I-Site Sustainable Solutions, referenced Job No. 29.07 (Drawing No. KN-03 and KN-04), dated 7 November 2013, except as modified by the following conditions.
2. The use of sites ST30 and ST31 for safari tents is not approved. Any future use of these sites shall be subject to a separate assessment under section 100B of the Rural Fires Act 1997.

#### Asset Protection Zones

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

3. 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'.

#### Water and Utilities



The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

4. Water, electricity and gas are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

#### Access

The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:

5. Internal roads shall comply with section 4.2.7 of 'Planning for Bushfire Protection 2006' except that the perimeter road width may be less than 8 metres and a passing bay shall be provided along the eastern perimeter road, being 20 metres long by 2 metres wide, making a minimum trafficable width of 6 metres at the passing bay.

#### Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

6. An emergency and evacuation plan addressing 4.2.7 of 'Planning for Bush Fire Protection 2006' shall be prepared for the subject site. A copy of the plan shall be provided to the consent authority prior to the issuing of an occupation certificate.

#### Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

7. The existing cabins on proposed site ST22 and ST23 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.
8. New construction of cabins on proposed sites ST20 and ST21 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'.
9. New construction of the Manager's Residence and cabins on proposed sites ST16 to ST19 (inclusive) shall comply with Sections 3 and 5 (BAL 12.5) 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. Roofing of new structures 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.

Landscaping

11. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

The Motion was **Carried**

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

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- 4 **[PR-PC] Development Application DA13/0502 for a Staged Development - Boundary Adjustment, Boat Storage Facility and One Dwelling as a Caretakers Residence and One Dwelling with a Commercial Premise Component at Lots 22-23 DP 1130032 Nos. 7-9 Chinderah Bay Drive, Chinderah**

**P 71**

**Cr K Milne**  
**Cr G Bagnall**

**PROPOSED** that Development Application DA13/0502 for a staged development - boundary adjustment, boat storage facility and one dwelling as a caretakers residence and one dwelling with a commercial premise component at Lots 22-23 DP 1130032 Nos. 7-9 Chinderah Bay Drive, Chinderah be refused for the following reasons:

1. Pursuant to the Environmental Planning and Assessment Act 1979 section 79C(1)(b) as the development application is likely to have a negative impact on the surrounding mixed use business zone as it is of an industrial purpose rather than a commercial purpose.
2. Pursuant to the Environmental Planning and Assessment Act 1979 section 79C(1)(c) as the site is unsuitable for the development given the surrounding mixed use business zone as it is of an industrial purpose rather than a commercial purpose.
3. Pursuant to the Environmental Planning and Assessment Act 1979 section 5(a)(ii) as the location of this primarily industrial use is contrary to the surrounding mixed use business zone given the proposed development is of an industrial purpose rather than a commercial purpose.
4. Pursuant to Section 79C (1)(a)(i) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed development is not considered to be compliant with Environmental Planning Instruments.

The proposed development does not satisfy the provisions contained within:

The Tweed LEP 2000:

- Clause 4: Aims of this plan;
  - Clause 5: Ecologically sustainable development;
  - Clause 8(1): Consent Considerations;
5. The development does not satisfy Section 79C of the Environmental Planning and Assessment Act, particularly Section (a)(i) - *the provisions of Tweed Local Environmental Plan 2014* in that the marina development is prohibited within the B4 Mixed Use Business zone.
  6. The development does not satisfy Section 79C of the Environmental Planning and Assessment Act, particularly Section (a)(i) - *the provisions of Tweed Local Environmental Plan 2014* in that the marina development is inconsistent with the objectives of the B4 Mixed Use Business zone.
  7. Pursuant to Section 79C (1)(b) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed development is not considered to be compliant with Environmental Planning Instruments due to the impacts on the natural and built environments, and social and economic impacts in the locality, and cumulative impacts on the river ecology.

## **AMENDMENT 1**

### **P 72**

**Cr C Byrne**  
**Cr W Polglase**

**PROPOSED** that Development Application DA13/0502 for a staged development - boundary adjustment, boat storage facility and one dwelling as a caretakers residence and one dwelling with a commercial premise component at Lots 22-23 DP 1130032 Nos. 7-9 Chinderah Bay Drive, Chinderah 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 Proposed Site Plan REV 07 prepared by Planit and dated 11/13, Plan Nos 13-049 Lot 22 sheet 3 of 6, 4 of 6, 5 of 6, 6 of 6 prepared by Bush & Beach Homes and dated 12/06/13, Plan Nos 13-049 Lot 23 sheet 3 of 7, 4 of 7, 5 of 7, 6 of 6, 7 of 7 prepared by Bush & Beach Homes and dated 12/06/13, Plan Nos FDHS-RG sheet 1 of 6, 2 of 6, 3 of 6, 6 of 6 prepared by Fairdinkum Sheds and dated 29/07/2013 as amended in Red, Plan Nos FDHS-RG sheet 1 of 6, 2 of 6, 3 of 6, 6 of 6 prepared by Fairdinkum Sheds and dated 18/06/2013 as amended in Red, except where varied by the conditions of this consent.  
[GEN0005]
2. The subdivision is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications.  
[GEN0125]

3. Approval is given subject to the location of, protection of, and/or any necessary 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 Engineering Division for approval of such works.

[GEN0155]

5. 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]

6. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.

[GEN0265]

7. Waste management on the site shall be carried out in accordance with the approved Waste Management Plan.

[GENNS01]

8. The adult occupants of the caretakers dwelling are to be employees of the approved boating storage facility under this consent.

[GENNS02]

9. The development is to be undertaken in three stages. The stages are as follows:

Stage 1 - General Site works, construction of dwelling on proposed Lot 22 and construction of 21 Bay Storage Shed

Stage 2 - Undertake boundary adjustment and construction of 17 Bay Storage Shed

Stage 3 - Construction of dwelling and commercial premise on proposed Lot 23

[GENNS03]

#### PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

Two parking spaces are to be provided per dwelling.

Four parking spaces are to be provided for the commercial premise on Proposed Lot 23.

Two parking spaces are to be provided for the boat stage facility on Proposed Lot 22.

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]

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

[PCC0285]

12. 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]

13. 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]

14. 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]

15. 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]

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

- (a) Design flood level of RL 2.9m AHD.
- (b) The minimum habitable floor level for the building is RL 3.4m AHD.
- (c) All building materials used below Council's design flood level must not be susceptible to water damage.

- (d) Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level should to suitably treated to withstand continuous submergence in water and provide appropriate earth leakage devices.
- (e) Define adequate provision for the flood free storage for goods and equipment susceptible to water damage.

[PCC0705]

17. Construction Certificate design detail shall confirm the area below Council's design flood level is not totally enclosed for the dwelling on proposed Lot 22. The enclosure of laundry, stairway entry and double garage space is permitted provided the area of enclosure does not exceed 50m<sup>2</sup> and does not exceed 50% of the site coverage. It is to be noted that the commercial premise on proposed Lot 23 is exempt from the 50m<sup>2</sup> provision and that the commercial premise covers less than 50% of the site.

[PCC0715]

18. Fencing detail is to be provided detailing a form that will either allow the free passage of flood water or be of a light construction such as timber paling that will collapse as a result of any build up of floodwater or debris.

[PCC0725]

19. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:

- (a) Vehicular access

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

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

[PCC0895]

20. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by Tweed shire Council PRIOR to the issue of a construction certificate.

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

Council's Environmental Health Unit shall be notified 24 hrs prior to commencement of demolition works.

[PCC1065]

21. 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) Additional sediment fence return will be added along the rear half of the northern boundary of proposed Lot 23. Site survey indicates the land falls this way and runoff can potentially exit the site.
- [PCC1105]
22. Disposal of stormwater by means of infiltration devices shall be carried out in accordance with Section D7.9 of Tweed Shire Councils *Development Design and Construction Specification - Stormwater Quality*.
- [PCC1125]
23. Stormwater
- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.
  - (b) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
  - (c) The infiltration rate for sizing infiltration devices shall be 3m per day:
    - \* As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
  - (d) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
  - (e) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
  - (f) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the

responsibility of the body corporate (to ensure continued collective responsibility for site drainage).

- (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (h) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- (i) All infiltration devices are to be designed to withstand loading from vehicles during construction and operation of the development.
- (j) All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

24. 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]

25. 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]

26. Medium density/integrated developments, excluding developments containing less than four attached or detached dwellings and having a Building Code classification of 1a, will be required to provide a single bulk water service at the road frontage. Individual metering beyond this point shall be managed by occupants. Application for



the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

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

[PCC1185]

27. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to the issue of a construction certificate.

[PCC1195]

28. Pursuant to Section 68 of the Local Government Act, 1993 an approved pre-treatment device (eg. Oil/grease traps, separators, etc) shall be installed in accordance with Tweed Shire Councils Trade Waste Policy. Submission of detailed hydraulic plans and specifications indicating size, type, location and drainage installations in accordance with AS 3500 shall be submitted to Council for approval.

[PCC1265]

29. Three copies of detailed hydraulic plans shall be submitted with all trade waste applications which indicate size, type and location of pre-treatment devices. All plumbing and drainage installations to these devices shall comply with AS3500.

[PCC1275]

30. Certification from a suitably qualified person that the construction design achieves the requirements of the Environmental Noise Impact Report (crgref:13104a Report) prepared by CRG Acoustical Consultants dated 8 August 2013 and addendum dated 26 November 2013.

31. All works shall be carried out in accordance with Council's Acid Sulfate Soils Management Plan for Minor Works. A signed copy of this Management Plan (MP) shall be submitted. Should proposed works exceed the scope of the MP a site specific investigation and management plan shall be prepared and submitted to the satisfaction of the General Manager or delegate.

32. The wash bay shall be designed to ensure the adequate collection, treatment, where required, and removal of liquid trade waste to the satisfaction of the General Manager or delegate.

[PCCNS01]

33. Prior to the issuing of a Construction Certificate a construction waste management plan is to be provided to Council. The Waste management plan is to include:

- i. The type of waste generated during construction
- ii. The method and location of waste storage on site
- iii. How any recyclable materials will be managed
- iv. The location of the disposal facility for residual waste

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

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34. 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]

35. 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]

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

[PCW0225]

37. Residential building work:

(a) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to

which the work relates (not being the council) has given the council written notice of the following information:

(i) in the case of work for which a principal contractor is required to be appointed:

- \* in the name and licence number of the principal contractor, and
- \* the name of the insurer by which the work is insured under Part 6 of that Act,

(ii) in the case of work to be done by an owner-builder:

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

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

[PCW0235]

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

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

[PCW0245]

39. 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]

40. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required to the satisfaction of the Principal Certifying Authority. These measures are to be in accordance with the approved 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]

41. 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

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

[DUR0005]

43. 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]

44. 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]

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

[DUR0245]

46. 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]

47. 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]

48. 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]

49. 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, Work Health and Safety Regulation 2011.

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]

50. 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]

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

[DUR0815]

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

Please note timber retaining walls are not permitted.

[DUR0835]

53. 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]

54. 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]

55. 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]

56. 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]

57. 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]

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

[DUR1945]

59. 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]

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

[DUR2425]

61. 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]

62. 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 Plumbing Code of Australia and AS/NZS 3500. [DUR2495]
63. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard. [DUR2535]
64. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level. [DUR2545]
65. 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:-
- \* 45°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]
66. The structure is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the 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 sewer main. [DUR2645]
67. A trade waste agreement will be issued and a permit number allocated once the device has been installed, inspected and Council has received a copy of the Waste Contractor's Service Agreement [DUR2685]
68. Any structures that are to be constructed over or within the zone of influence of Council's sewer main are to comply with Tweed Shire Council's "Sewers - Building in Proximity" policy. [DUR2705]
69. All works shall be carried out in accordance with the approved Acid Sulfate Soil Management Plan. [DURNS01]

#### PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

70. 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]

71. 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]

72. A final occupation certificate must be applied for and obtained within 6 months of any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein).

[POC0355]

73. Section 94 Contributions

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

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 94 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

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

Stage 1

- |   |          |
|---|----------|
| (a) Tweed Road Contribution Plan:<br>4 Trips @ \$1176 per Trips<br>(\$1,137 base rate + \$39 indexation)<br>S94 Plan No. 4<br>Sector6_4   | \$4,704  |
| (b) Extensions to Council Administration Offices<br>& Technical Support Facilities<br>0.309641 ET @ \$1860.31 per ET<br>(\$1,759.90 base rate + \$100.41 indexation)<br>S94 Plan No. 18 | \$576.03 |



Stage 2

(a) Extensions to Council Administration Offices & Technical Support Facilities 0.22519 ET @ \$1860.31 per ET (\$1,759.90 base rate + \$100.41 indexation) S94 Plan No. 18	\$418.92
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Stage 3

(a) Tweed Road Contribution Plan: 5.9904 Trips @ \$1176 per Trips (\$1,137 base rate + \$39 indexation) S94 Plan No. 4 Sector6_4	\$7,045
(b) Extensions to Council Administration Offices & Technical Support Facilities 0.20499 ET @ \$1860.31 per ET (\$1,759.90 base rate + \$100.41 indexation) S94 Plan No. 18	\$381.34

[POC0395/PSC0175]

74. 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]
75. All landscaping work is to be completed in accordance with the approved plans prior to the issue of a final occupation certificate for the buildings. [POC0475]
76. 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.

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 64 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Stage 1

Water DSP4:	0.1667 ET @ \$12575 per ET	\$2,096.30
Sewer Kingscliff:	0.219 ET @ \$6042 per ET	\$1,323.20

Stage 3

Water DSP4:	1.2496 ET @ \$12575 per ET	\$15,713.70
Sewer Kingscliff:	1.3744 ET @ \$6042 per ET	\$8,304.10

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.

[POC0675/PSC0165]

77. 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]
78. Hours of operation of the Boat Storage business are restricted to the following hours:  
\* 7am to 6pm - Mondays to Sundays [USE0185]
79. All deliveries to the premises are to occur only within the hours of 8am to 6pm Monday to Saturdays, unless otherwise approved by Council's General Manager or his delegate. Urgent or medical related deliveries exempted. [USE0195]
80. 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]
81. 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]
82. The servicing of waste facilities shall be limited to between the hours of 0800hrs to 1800hrs Monday to Saturday. [USE0285]
83. The development shall be carried out in accordance with the provisions of the Environmental Noise Impact Report (crgref:13104a) prepared by CRG Acoustical Consultants and dated 8 August 2013 and addendum dated 26 November 2013. [USE0305]

84. The use being restricted to the areas designated on the approved plan. [USE0415]
85. No items or goods are to be stored or displayed outside the confines of the premises. [USE0445]
86. All loading/unloading to take place within the boundary of the subject property. [USE0525]
87. A backflow containment device will be installed adjacent to Councils water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owners expense. [USE1455]
88. A maximum of four customers per day is permitted with a maximum of seven customers per week permitted.
89. A maximum of four engines shall be flushed within any one day of operation. Engines shall operate at idle only and only for a maximum period of 2 mins.
90. A The maintenance of boats and equipment is not permitted.
91. All liquid trade waste collection, treatment and drainage systems shall be adequately maintained at all times. [USENS01]
92. Noise Treatment:
- Hours of operation be limited to the daytime period between 7am and 6pm, 7 days per week.
  - The wash bay should be enclosed with solid walls along the northern, western and eastern perimeters of the bay and a solid roof over the bay as detailed in Sketch 1 in Appendix A of this report. Walls should be constructed to achieve a minimum surface mass of 11 kg/m<sup>2</sup> (i.e. 9mm FC sheeting or masonry).
  - The roof of the wash bay enclosure should have an absorptive ceiling lining with a minimum Noise Reduction Coefficient (NRC) rating of 0.8 (i.e. a minimum 50mm thick, 22kg/m<sup>2</sup> fibreglass batts) as detailed in Sketch 1 in Appendix A of this report. Ceiling absorption batts may have a perforated foil facing having an open space area of no less than 12 % (this will protect the batts from damage).
  - There should be no gaps or holes between the connection with the wash bay enclosure and the adjacent storage shed (i.e. no gaps or holes at the connecting walls or roofing).
  - There should be no gaps or holes between the roof and the walls, between the ground and the walls and along the walls themselves (with the exception of the proposed roller door entries) at wash bay enclosure and the two boat storage sheds.
  - The recycling (bottle) bins storage area should be located to the east of the proposed onsite sheds (i.e. between the sheds and the Chinderah Bay Drive road corridor) to maximum the separation distance between the offsite and future residential dwellings as detailed in Sketch 1 in Appendix A of this report.
  - No boat repairs or maintenance be undertaken onsite.
-

- No high pressure water hoses are to be used onsite or at the wash bay.
- Engine flushing is to occur for a maximum period of 2 minutes (within any 15 minute period).
- Engines are to run at idle during engine flushing (i.e. no revving of engine).
- Staff should minimise metal impacts when hitching/unhitching trailers.
- Driveway hardstand areas be finished with surface coatings which prevent tyre squeal (an uncoated surface is acceptable).
- Drainage grating over trafficable areas be well secured to prevent rattling.

[USENS02]

#### PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

93. 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]

94. 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) 3m wide easement is to be registered over the existing sewer main.

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]

95. 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]

96. 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]

97. 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]

98. 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.

[PSC1185]

Cr G Bagnall temporarily left the meeting at 05:49 PM.

Cr G Bagnall has returned from temporary absence at 05:51 PM

Amendment 1 was **Lost** (Minute No. P 72 refers)

**FOR VOTE - Cr W Polglase, Cr C Byrne**

**AGAINST VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland**

**ABSENT. DID NOT VOTE - Cr P Youngblutt**

## **AMENDMENT 2**

**P 73**

**Cr G Bagnall**

**Cr C Byrne**

**RECOMMENDED** that Development Application DA13/0502 for a staged development - boundary adjustment, boat storage facility and one dwelling as a caretakers residence and one dwelling with a commercial premise component at Lots 22-23 DP 1130032 Nos. 7-9 Chinderah Bay Drive, Chinderah 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 Proposed Site Plan REV 07 prepared by Planit and dated 11/13, Plan Nos 13-049 Lot 22 sheet 3 of 6, 4 of 6, 5 of 6, 6 of 6 prepared by Bush & Beach Homes and dated 12/06/13, Plan Nos 13-049 Lot 23 sheet 3 of 7, 4 of 7, 5 of 7, 6 of 6, 7 of 7 prepared by Bush & Beach Homes and dated 12/06/13, Plan Nos FDHS-RG sheet 1 of 6, 2 of 6, 3 of 6, 6 of 6 prepared by Fairdinkum Sheds and dated 29/07/2013 as amended in Red, Plan Nos FDHS-RG sheet 1 of 6, 2 of 6, 3 of 6, 6 of 6 prepared by Fairdinkum Sheds and dated 18/06/2013 as amended in Red, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0125]

3. Approval is given subject to the location of, protection of, and/or any necessary 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 Engineering Division for approval of such works.

[GEN0155]

5. 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]

6. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.

[GEN0265]

7. Waste management on the site shall be carried out in accordance with the approved Waste Management Plan.

[GENNS01]

8. The adult occupants of the caretakers dwelling are to be employees of the approved boating storage facility under this consent.

[GENNS02]

9. The development is to be undertaken in three stages. The stages are as follows:

Stage 1 - General Site works, construction of dwelling on proposed Lot 22 and construction of 21 Bay Storage Shed

Stage 2 - Undertake boundary adjustment and construction of 17 Bay Storage Shed

Stage 3 - Construction of dwelling and commercial premise on proposed Lot 23

[GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

Two parking spaces are to be provided per dwelling.

Four parking spaces are to be provided for the commercial premise on Proposed Lot 23.

Two parking spaces are to be provided for the boat stage facility on Proposed Lot 22.

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]

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

[PCC0285]

12. 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]

13. 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]

14. 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. The landscaping plan is to include a detailed entrance plan demonstrating screening to Chinderah Bay Drive, signage details and the inclusion of elements that are consistent with the history and maritime character of the Chinderah locality.

[PCC0585]

15. 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 filing on local drainage. Detailed engineering plans of fill levels and perimeter drainage shall be submitted for Council approval.

[PCC0675]

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

- (a) Design flood level of RL 2.9m AHD.
- (b) The minimum habitable floor level for the building is RL 3.4m AHD.
- (c) All building materials used below Council's design flood level must not be susceptible to water damage.
- (d) Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level should to suitably treated to withstand continuous submergence in water and provide appropriate earth leakage devices.
- (e) Define adequate provision for the flood free storage for goods and equipment susceptible to water damage.

[PCC0705]

17. Construction Certificate design detail shall confirm the area below Council's design flood level is not totally enclosed for the dwelling on proposed Lot 22. The enclosure of laundry, stairway entry and double garage space is permitted provided the area of enclosure does not exceed 50m<sup>2</sup> and does not exceed 50% of the site coverage. It is to be noted that the commercial premise on proposed Lot 23 is exempt from the 50m<sup>2</sup> provision and that the commercial premise covers less than 50% of the site.

[PCC0715]

18. Fencing detail is to be provided detailing a form that will either allow the free passage of flood water or be of a light construction such as timber paling that will collapse as a result of any build up of floodwater or debris.

[PCC0725]

19. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:

- (a) Vehicular access

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

- Road works/furnishings
- Stormwater drainage
- Water and sewerage works
- Sediment and erosion control plans



- Location of all services/conduits
- Traffic control plan

[PCC0895]

20. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by Tweed shire Council PRIOR to the issue of a construction certificate.

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

Council's Environmental Health Unit shall be notified 24 hrs prior to commencement of demolition works.

[PCC1065]

21. 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) Additional sediment fence return will be added along the rear half of the northern boundary of proposed Lot 23. Site survey indicates the land falls this way and runoff can potentially exit the site.

[PCC1105]

22. Disposal of stormwater by means of infiltration devices shall be carried out in accordance with Section D7.9 of Tweed Shire Councils Development Design and Construction Specification - Stormwater Quality.

[PCC1125]

23. Stormwater

- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.
- (b) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
- (c) The infiltration rate for sizing infiltration devices shall be 3m per day:

\* As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.

- (d) Surchage overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
- (e) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
- (f) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
- (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (h) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- (i) All infiltration devices are to be designed to withstand loading from vehicles during construction and operation of the development.
- (j) All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

24. 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]

25. 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]

26. Medium density/integrated developments, excluding developments containing less than four attached or detached dwellings and having a Building Code classification of 1a, will be required to provide a single bulk water service at the road frontage. Individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

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

[PCC1185]

27. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to the issue of a construction certificate.

[PCC1195]

28. Pursuant to Section 68 of the Local Government Act, 1993 an approved pre-treatment device (eg. Oil/grease traps, separators, etc) shall be installed in accordance with Tweed Shire Councils Trade Waste Policy. Submission of detailed hydraulic plans and specifications indicating size, type, location and drainage installations in accordance with AS 3500 shall be submitted to Council for approval.

[PCC1265]

29. Three copies of detailed hydraulic plans shall be submitted with all trade waste applications which indicate size, type and location of pre-treatment devices. All plumbing and drainage installations to these devices shall comply with AS3500.

[PCC1275]

30. Certification from a suitably qualified person that the construction design achieves the requirements of the Environmental Noise Impact Report (crgref:13104a Report) prepared by CRG Acoustical Consultants dated 8 August 2013 and addendum dated 26 November 2013.

31. All works shall be carried out in accordance with Council's Acid Sulfate Soils Management Plan for Minor Works. A signed copy of this Management Plan (MP) shall be submitted. Should proposed works exceed the scope of the MP a site specific investigation and management plan shall be prepared and submitted to the satisfaction of the General Manager or delegate.

32. The wash bay shall be designed to ensure the adequate collection, treatment, where required, and removal of liquid trade waste to the satisfaction of the General Manager or delegate.

[PCCNS01]

33. Prior to the issuing of a Construction Certificate a construction waste management plan is to be provided to Council. The Waste management plan is to include:

- i. The type of waste generated during construction
- ii. The method and location of waste storage on site
- iii. How any recyclable materials will be managed
- iv. The location of the disposal facility for residual waste

[PCCNS02]

#### PRIOR TO COMMENCEMENT OF WORK

34. 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]

35. 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]

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

[PCW0225]

37. Residential building work:

(a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

(i) in the case of work for which a principal contractor is required to be appointed:

- \* in the name and licence number of the principal contractor, and
- \* the name of the insurer by which the work is insured under Part 6 of that Act,

(ii) in the case of work to be done by an owner-builder:

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

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

[PCW0235]

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

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

[PCW0245]

39. 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]

40. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required to the satisfaction of the Principal Certifying Authority. These measures are to be in accordance with the approved 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]

41. 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

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

[DUR0005]

43. 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]

44. 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]

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

[DUR0245]

46. 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]

47. 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]

48. 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]

49. 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, Work Health and Safety Regulation 2011.

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]

50. 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]

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

[DUR0815]

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

Please note timber retaining walls are not permitted.

[DUR0835]

53. 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]

54. 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]

55. 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]

56. 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]

57. 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]

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

[DUR1945]

59. 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]

60. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.
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[DUR2425]

61. 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]

62. 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 Plumbing Code of Australia and AS/NZS 3500.

[DUR2495]

63. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR2535]

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

[DUR2545]

65. 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:-

- \* 45°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]

66. The structure is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the 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 sewer main.

[DUR2645]

67. A trade waste agreement will be issued and a permit number allocated once the device has been installed, inspected and Council has received a copy of the Waste Contractor's Service Agreement  
[DUR2685]
68. Any structures that are to be constructed over or within the zone of influence of Council's sewer main are to comply with Tweed Shire Council's "Sewers - Building in Proximity" policy.  
[DUR2705]
69. All works shall be carried out in accordance with the approved Acid Sulfate Soil Management Plan.  
[DURNS01]

#### PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

70. 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]
71. 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]
72. A final occupation certificate must be applied for and obtained within 6 months of any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein).  
[POC0355]
73. Section 94 Contributions

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

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 94 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

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

Stage 1

- |   |          |
|---|----------|
| (a) Tweed Road Contribution Plan:<br>4 Trips @ \$1176 per Trips<br>(\$1,137 base rate + \$39 indexation)<br>S94 Plan No. 4<br>Sector6_4   | \$4,704  |
| (b) Extensions to Council Administration Offices<br>& Technical Support Facilities<br>0.309641 ET @ \$1860.31 per ET<br>(\$1,759.90 base rate + \$100.41 indexation)<br>S94 Plan No. 18 | \$576.03 |

Stage 2

- |  |          |
|--|----------|
| (a) Extensions to Council Administration Offices<br>& Technical Support Facilities<br>0.22519 ET @ \$1860.31 per ET<br>(\$1,759.90 base rate + \$100.41 indexation)<br>S94 Plan No. 18 | \$418.92 |
|--|----------|

Stage 3

- |  |          |
|--|----------|
| (a) Tweed Road Contribution Plan:<br>5.9904 Trips @ \$1176 per Trips<br>(\$1,137 base rate + \$39 indexation)<br>S94 Plan No. 4<br>Sector6_4   | \$7,045  |
| (b) Extensions to Council Administration Offices<br>& Technical Support Facilities<br>0.20499 ET @ \$1860.31 per ET<br>(\$1,759.90 base rate + \$100.41 indexation)<br>S94 Plan No. 18 | \$381.34 |

[POC0395/PSC0175]

74. 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]

75. All landscaping work is to be completed in accordance with the approved plans prior to the issue of a final occupation certificate for the buildings. Landscaping must be maintained to the satisfaction of the General Manager or delegate for a period of 24 months from the date of issue of a final occupation certificate.

[POC0475]

76. 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.

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 64 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Stage 1

Water DSP4:	0.1667 ET @ \$12575 per ET	\$2,096.30
Sewer Kingscliff:	0.219 ET @ \$6042 per ET	\$1,323.20

Stage 3

Water DSP4:	1.2496 ET @ \$12575 per ET	\$15,713.70
Sewer Kingscliff:	1.3744 ET @ \$6042 per ET	\$8,304.10

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.

[POC0675/PSC0165]

77. 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]

78. Hours of operation of the Boat Storage business are restricted to the following hours:

\* 7am to 6pm - Mondays to Sundays

[USE0185]

79. All deliveries to the premises are to occur only within the hours of 8am to 6pm Monday to Saturdays, unless otherwise approved by Council's General Manager or his delegate. Urgent or medical related deliveries exempted.

[USE0195]

80. 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]
81. 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]
82. The servicing of waste facilities shall be limited to between the hours of 0800hrs to 1800hrs Monday to Saturday.  
[USE0285]
83. The development shall be carried out in accordance with the provisions of the Environmental Noise Impact Report (crgref:13104a) prepared by CRG Acoustical Consultants and dated 8 August 2013 and addendum dated 26 November 2013.  
[USE0305]
84. The use being restricted to the areas designated on the approved plan.  
[USE0415]
85. No items or goods are to be stored or displayed outside the confines of the premises.  
[USE0445]
86. All loading/unloading to take place within the boundary of the subject property.  
[USE0525]
87. A backflow containment device will be installed adjacent to Councils water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owners expense.  
[USE1455]
88. A maximum of four customers per day is permitted with a maximum of seven customers per week permitted.
89. A maximum of four engines shall be flushed within any one day of operation. Engines shall operate at idle only and only for a maximum period of 2 mins.
90. A The maintenance of boats and equipment is not permitted.
91. All liquid trade waste collection, treatment and drainage systems shall be adequately maintained at all times.  
[USENS01]
92. Noise Treatment:
- Hours of operation be limited to the daytime period between 7am and 6pm, 7 days per week.
  - The wash bay should be enclosed with solid walls along the northern, western and eastern perimeters of the bay and a solid roof over the bay as detailed in

Sketch 1 in Appendix A of this report. Walls should be constructed to achieve a minimum surface mass of 11 kg/m<sup>2</sup> (i.e. 9mm FC sheeting or masonry).

- The roof of the wash bay enclosure should have an absorptive ceiling lining with a minimum Noise Reduction Coefficient (NRC) rating of 0.8 (i.e. a minimum 50mm thick, 22kg/m<sup>2</sup> fibreglass batts) as detailed in Sketch 1 in Appendix A of this report. Ceiling absorption batts may have a perforated foil facing having an open space area of no less than 12 % (this will protect the batts from damage).
- There should be no gaps or holes between the connection with the wash bay enclosure and the adjacent storage shed (i.e. no gaps or holes at the connecting walls or roofing).
- There should be no gaps or holes between the roof and the walls, between the ground and the walls and along the walls themselves (with the exception of the proposed roller door entries) at wash bay enclosure and the two boat storage sheds.
- The recycling (bottle) bins storage area should be located to the east of the proposed onsite sheds (i.e. between the sheds and the Chinderah Bay Drive road corridor) to maximum the separation distance between the offsite and future residential dwellings as detailed in Sketch 1 in Appendix A of this report.
- No boat repairs or maintenance be undertaken onsite.
- No high pressure water hoses are to be used onsite or at the wash bay.
- Engine flushing is to occur for a maximum period of 2 minutes (within any 15 minute period).
- Engines are to run at idle during engine flushing (i.e. no revving of engine).
- Staff should minimise metal impacts when hitching/unhitching trailers.
- Driveway hardstand areas be finished with surface coatings which prevent tyre squeal (an uncoated surface is acceptable).
- Drainage grating over trafficable areas be well secured to prevent rattling.

[USENS02]

#### PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

93. 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]

94. 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) 3m wide easement is to be registered over the existing sewer main.

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]

95. 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]

96. 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]

97. 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]

98. 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.

[PSC1185]

Amendment 2 was **Carried**

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

Amendment 2 on becoming the Motion was **Carried** - (Minute No P 73 refers)

**FOR VOTE - Cr W Polglase, Cr C Byrne, Cr G Bagnall, Cr B Longland**  
**AGAINST VOTE - Cr K Milne, Cr M Armstrong**  
**ABSENT. DID NOT VOTE - Cr P Youngblutt**

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**5 [PR-PC] Development Application DA13/0577 for a 88 Lot Subdivision - Stages 15 to 18 Seabreeze Estate at Lot 1147 DP 1115395 Seabreeze Boulevard, Pottsville**

**P 74**

**Cr W Polglase**  
**Cr B Longland**

**RECOMMENDED** that Development Application DA13/0577 for a 88 lot subdivision - stages 15 to 18 Seabreeze Estate at Lot 1147 DP 1115395; Seabreeze Boulevard, Pottsville 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:

- 17850 B Revision E (Proposed Subdivision - Stages 15, 16 & 18);
- 17683 B Revision C (Stage 17)

Prepared by B & P Surveys and dated 29 January 2014, 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 applicant shall arrange for a site inspection to be carried out with Council's Environmental Health Officer and key representatives involved in the dewatering activity including consultants and personnel responsible under any Dewatering Management Plan approved by Council's General Manager or his delegate. Such site inspection shall be arranged and carried out prior to the commencement of any offsite dewatering activity occurring.

[GEN0180]
6. The approved subdivision/development shall not result in any clearing of native vegetation without prior approval where required from the relevant authority.

[GENNS01]
7. The development must meet the Council Sewer - Works in Proximity Policy, regarding construction on or near the existing sewer. This includes landscaping and fencing near sewers and manholes.
8. The sewer layout plan submitted in this application (received via email from DAC on Friday 21 March, Plans SK4055 to SK4057) is considered to be preliminary and is subject to change to meet Council sewer design requirements.
9. The small unmarked area of land adjacent to the western side of Lot 1601, fronting Lennox Circuit, is to be incorporated as part of Lot 1601.
10. No roadworks are required in Tom Merchant Drive for the frontage of Lot 1702. The applicant is however advised that road frontage works will be necessary in conjunction with any future development proposal over that lot, and will be imposed accordingly at that time.

This is an advisory condition only.

11. The proposed Drainage Reserve adjoining the northern boundaries of Lots 1802 and 1803 has not been provided with a lot number, nor annexed to any particular 'Stage'.

This lot is to be dedicated to Council as Drainage Reserve in conjunction with the first Stage being released.
12. The relocated overland flowpath depicted on plan 'Amended Overland Flow Sketch' dated 2.9.2013 is not to be implemented as part of this development consent.

[GENNS02]

#### PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

13. Prior to the issue of a Civil Construction Certificate for each stage of the project, a Construction Management Plan shall be submitted to and approved by the Principle Certifying Authority. A copy of the approved plan shall be submitted to Council. The Plan shall address, but not be limited to, the following matters where relevant:
  - a) Hours of work;
  - b) Contact details of site manager;
  - c) Traffic and pedestrian management;
  - d) Noise and vibration management;
  - e) Construction waste management;
  - f) Erosion and sediment control; and,

g) Flora and fauna management.

Where construction work is to be undertaken in stages, the Proponent may, subject to agreement with the Principle Certifying Authority, stage the submission of the Construction Management Plan consistent with the staging of activities relating to that work. The Proponent shall submit a copy of the approved plan to Council.

[PCC0125]

14. All Construction Certificate Applications for subdivision works shall include a detailed Stormwater Management Plan (SWMP) for the occupational or use stage of the proposed development, prepared in accordance with Section D7.07 of Council's *Development Design Specification D7 - Stormwater Quality*. Such plans are to include measures, monitoring and adaptive management actions to ensure appropriate stormwater quality outcomes are achieved.

Permanent stormwater quality treatment shall comply with the *Tweed Urban Stormwater Quality Management Plan* and Council's *Development Design Specification D7 - Stormwater Quality*. Variations to these standards shall only be accepted where they are supported by best practice water sensitive urban design principles entailed in the "Water By Design" guidelines (being a program of the South East Queensland Healthy Waterways Partnership).

Treatment basins must be provided with a facility to bypass major stormwater flow events (greater than the Q3 month storm event), or otherwise cater for major storm flows without disturbing captured pollutants or damaging the structure.

Proposed treatment measures other than "deemed to comply" measures as specified in Council's *Development Design Specification D7*, must be supported by engineering calculations, including MUSIC modelling, to confirm that acceptable capacity and efficiency is achieved.

An Operational Manual for all stormwater quality control devices must be provided as part of the SWMP. This manual must be updated as required during the Defects Liability ("On-Maintenance") Period for the device and the final version of the manual must be handed over to Council at the formal commissioning of the device, at the completion of the Defects Liability Period ("Off Maintenance").

[PCC0165]

15. Proposed Lot 1803 shall be suitably embellished at no cost to Council including grassing, landscaping, seating, playground equipment and shade cover (as may be required) in accordance with detailed plans to accompany the Construction Certificate application. Where play equipment is installed a minimum area of 10m around the equipment is to be turfed and the remaining area seeded.

Where a developer pays Council to acquire and install play equipment, Council will NOT install the equipment until a minimum of 20% of the lots in that stage of the development are occupied. The embellishment shall be completed prior to the issue of a Subdivision Certificate.

[PCC0235]

16. 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]

17. 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]

18. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17<sup>o</sup> 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]

19. Submission for approval by the Principal Certifying Authority design detail including surcharge loads for any retaining walls to be erected on the site in accordance with AS 4678, Tweed Shire Council Development Control Plan Part A1 and Councils Development Design and Construction Specifications.

Design detail is to be supported by certification of adequacy of design from a suitably qualified structural engineer.

Please note timber retaining walls are not permitted.

[PCC0475]

20. 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]

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

- (a) Design flood levels to be adopted for each subdivision Stage are:

STAGE 15 = RL 3.1m AHD  
STAGE 16 = RL 3.2m AHD  
STAGE 17 = RL 2.8m AHD  
STAGE 18 = RL 3.1m AHD

- (b) All residential allotments shall be filled to a minimum of the design flood level.
- (c) All residential allotments shall be provided with a high level flood evacuation route in accordance with Development Control Plan Section A3 - Development of Flood Liable Land.
- (d) Where batters exceeding 0.6m in height are required along road frontages to achieve the required fill level, typical driveway designs shall be provided with the construction certificate to ensure complaint vehicular access in accordance with the Driveway Access to Property - Design Specification.

[PCC0705]

22. 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]

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

#### URBAN ROADS and INFRASTRUCTURE

- (a) Construction of roads and all necessary stormwater, sewer, water, telecommunications and electrical infrastructure for each Stage, generally as nominated in the plans by Bradlees submitted to Council on 21.3.2014.

#### OTHER

- (b) Review and amend the finished surface levels for areas within and separating Stages 15 and 16 in order to eliminate or reduce the extent of proposed retaining

walls. This will need to be addressed as part of the construction certificate submissions for those Stages.

- (c) All retaining walls are to be wholly contained within private lots.
- (d) The retaining wall shown within the western portion of Lot 1802 is not approved by this consent. Similarly, the proposed retaining walls bordering the existing Drainage Reserve and SPS site are unnecessary, unless required to facilitate road construction, provisioning of necessary public infrastructure, or smooth merging with future ground levels for Lot 1607.
- (e) The proposed road from Stage 15 that intersects with Lennox Circuit appears to have inappropriate sight distance for the posted 50km/h speed limit on these roads.

Should a 40km/h safe speed limit be required for satisfactory implementation, then appropriate traffic calming devices would be required, in accordance with AS1742.13 - Local Area Traffic Management. Full details are to be provided with the construction certificate application for Stage 15.

- (f) The sewer provisioning proposal is considered as being conceptual only. There are numerous bends and changes of angle (in the sewer lines) depicted without a sewer manhole, which must be rectified. Full design detail is to be submitted with construction certificate applications for all Stages.
- (g) All new roads are to be provided with a concrete footpath.
- (h) Provision of pedestrian/cycleway connectivity between existing infrastructure and Lot 1803 (proposed Public Reserve) is to be addressed with any approval being issued for works to be undertaken on this lot.

[PCC0875]

- 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 or other underground infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate.

[PCC0935]

- 25. Prior to the issue of a Construction Certificate for subdivision 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]

26. 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]

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. Where water is to be drawn from Councils reticulated system, the proponent shall:

- Make application for the hire of a Tweed Shire Council metered standpipe including Councils nomination of point of extraction.
- Where a current standpipe approval has been issued application must be made for Councils nomination of a point of extraction specific to the development.
- Payment of relevant fees in accordance with Councils adopted fees and charges.

[PCC1205]

29. The sewer layout plans provided within DA13/0577 do not meet the TSC Subdivision Design Standards for Sewer - D12 and prior to construction certificate, new plans meeting D12 must be provided.
30. Sewer plans provided within DA13/0577 are considered indicative only and updated plans meeting D12 must be provided.
31. Internal falls through manholes must be provided as per WSA02-2002.
32. Self cleansing flows through sewer reticulation must meet TSC Subdivision Design Standards for Sewer - D12.
33. Where proposed gravity sewer will not connect into existing stub, a new sewer connection may be required.
34. Locations of maintenance structures must meet D12.08.1 (d).
35. The construction certificate application shall include engineering calculations that confirm that the stormwater drainage system in Lennox Circuit has sufficient capacity to accept additional stormwater flows from Road 1, in accordance with the requirements of Development Design Specification D5 - Stormwater Drainage Design, or provide an alternate stormwater design.
36. The landforming plans for Stage 17 shall include the provision of trafficable maintenance paths within proposed drainage reserve allotment 1748 and 1749, to the satisfaction of the Director Engineering.  
[PCCNS01]
37. A detailed landscape plan prepared by a qualified landscape architect must be submitted for all Public Reserves and roads to be dedicated to Council, including but not limited to areas of casual open space, structured open space, cycleways, pedestrian walkways and streetscapes prior to the issue of a Construction Certificate. Such a plan must be approved by the Manager, Recreation Services, Tweed Shire Council and include embellishments such as listed in Councils Subdivision Manual (Section A5 of the Tweed Development Control Plan) and Development Design Specification (D14) and related Standard Drawings and include grassing, landscaping, seating, park activation areas, playground equipment and shade cover. The plans must provide slope information, indicate all underground services and indicate any implications or constraints at or beyond the boundary that will affect ongoing management of the public land.
38. Any playgrounds included in landscape plans must comply with the guidelines established in the 'Playground Audit for Tweed Shire Council' (July 2009). Appendix 3 of this establishes a procedure for assessing nearby hazards and mitigation measures. New subdivisions designed after development of these guidelines must ensure no playground facility has a Facility Risk Rating exceeding 13 as defined in Table 3A7 of that document.
39. The plants listed in landscape plans are to include no noxious or environmental weed species, and utilise wherever practical species native to the local area. Such species are described in Tweed Shire Council's Native Species Planting Guide.  
[PCCNS02]

40. A site specific acid sulfate soil management plan shall be prepared in accordance with the *NSW Acid Sulfate Soil Manual*, ASSMAC 1998 to the satisfaction of the General Manager or delegate. The plan shall include but not be limited to site investigations, treatment and validation measures and reporting.
- [PCCNS02]
41. The applicant must submit to Council for approval by Council's General Manager or his delegate prior to the issue of a construction certificate a detailed landscape plan for Lot 1803 'Proposed Public Reserve' as shown on the approved subdivision layout plan. The detailed landscape plan must:
- a. Be prepared by a qualified landscape architect or similar landscape design professional;
  - b. Be in general accordance with the *Amended Statement of Landscape Intent Seabreeze Residential Estate Stages 15-18 Issue C dated 13 March 2014 prepared by Boyds Bay Planning*;
  - c. Reflect the approved layout (including any amendments to that layout required by these conditions) and the conditions of this consent;
  - d. Comply with *Tweed Shire Council Development Design Specification D14 Landscaping Public Space Version 1.3*;
  - e. Contain no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species; and
  - f. Be consistent with arboricultural management recommendations detailed in the approved tree management plan for the *Ficus virens var. sublancoolata* (White Fig) or any future management recommendations current at the time of detailed landscape plan preparation that has been approved by Council's General Manager or delegate.
- [PCCNS03]
42. An amended Dewatering Management Plan shall be prepared and submitted to Council's General Manager or his delegate for consideration and approval which details the following:
- a) A site plan drawn to scale which indicates the extent of the excavation area and estimated zone of influence of the dewatering activity relative to any adjoining buildings together with an assessment of any impacts likely to occur to any adjoining buildings as a result of the dewatering activities;
  - b) The location to be indicated on the site plan of the area that will be utilised for the positioning of any treatment tank or sedimentation pond on the site including any reserve area to be used for such purpose in the event of the need for additional treatment facilities to be incorporated on the site;
  - c) Details of the proposed method of mechanical aeration to be used in the event that it is necessary to aerate the groundwater to achieve an acceptable Dissolved Oxygen level prior to the offsite discharge of groundwater and where this will be incorporated on the site;



- d) The provision of written advice from the operator of any on site groundwater treatment system stating that the system to be used will be able to treat the groundwater to the required treatment level prior to discharge.

Please note - particular attention is to be given to achieving the required detention times prior to discharge of the groundwater. Advice that the system is simply capable of achieving the necessary treatment will not be acceptable.

[PCCNS03]

#### PRIOR TO COMMENCEMENT OF WORK

43. 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]

44. 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, 3<sup>rd</sup> 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]

45. Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining premises shall be notified accordingly prior to commencement of such operations.

[PCW0125]

46. 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]

47. Prior to start of works the PCA is to be provided with a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and be supported by Geotechnical assessment of the founding material.

[PCW0745]

48. Subdivision work in accordance with a development consent must not be commenced until:

(a) a Construction Certificate for the subdivision 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]

49. 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]
50. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required to the satisfaction of the Principal Certifying Authority. These measures are to be in accordance with the approved erosion and sedimentation control plan and adequately maintained throughout the duration of the development. [PCW0985]
51. 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]
52. Where any existing sewer junctions are to be disused on the site, the connection point shall be capped off by Council staff. Applications shall be made to Tweed Shire Council and include the payment of fees in accordance with Councils adopted fees and charges prior to commencing any building works. [PCW1135]

#### DURING CONSTRUCTION

53. All proposed works are to be carried out in accordance with the conditions of development consent, approved management plans, approved construction certificate, drawings and specifications. [DUR0005]
54. 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]
55. 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]
56. 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]

57. 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]

58. Pumps used for dewatering operations are to be electrically operated. Diesel pumps are not to be used unless otherwise approved by the Tweed Shire Council General Manager or his delegate.

[DUR0255]

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

[DUR0675]

60. 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]

61. 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.

and upon completion,

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

[DUR0755]

62. 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]

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

[DUR0815]

64. 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]
65. 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]
66. 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]
67. 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]
68. 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]
69. All works shall be carried out in accordance with the Approved Acid Sulfate Soils Management Plan. [DUR1065]
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. Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval and demonstrating.
- (a) That the pavement has been designed in accordance with Tweed Shire Councils Development Design Specification, D2.
  - (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.
  - (c) That site fill areas have been compacted to the specified standard.
  - (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.
- [DUR1805]

72. 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]
73. 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]
74. 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

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal
- (g) Pathways, footways, cycleways - formwork/reinforcement
- (h) Final Practical Inspection - on maintenance
- (i) Off Maintenance inspection

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 Practical Inspection - on maintenance
- (i) Off maintenance

Stormwater Quality Control Devices (other than proprietary devices)

For detail refer to Water By Design - Technical Guidelines

- (a) Earthworks and filter media
- (b) Structural components
- (c) Operational establishment
- (d) Mechanical/electrical
- (e) Commissioning - on maintenance
- (f) 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 subdivision works, and subject to the submission of an application for a 'Subdivision Works Compliance Certificate'.

[DUR1895]

75. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation/Subdivision Certificate.

[DUR1955]

76. 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]

77. The applicant shall obtain the written approval of Council to the proposed road/street names and be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.

Application for road naming shall be made on Councils Property Service Form and be accompanied by the prescribed fees as tabled in Councils current Revenue Policy - "Fees and Charges".

The application shall also be supported by sufficient detail to demonstrate compliance with Councils Road Naming Policy.

[DUR2035]

78. Inter allotment drainage shall be provided to all lots where roof water for dwellings cannot be conveyed to the street gutter by gravitational means.

[DUR2285]

79. Drainage Reserve

(a) The proposed drainage reserves are to be dedicated to Council at no cost.

(b) An accurate plan of the proposed drainage reserves shall be submitted to Council 60 days prior to lodgment of the relevant Application for Subdivision Certificate (form 13) to allow the land to be classified.

[DUR2295]

80. Council's Environmental Health Officer shall be advised within 24 Hours in the event of detection of any failure associated with the dewatering activity being carried out on the site.

[DUR2315]

81. All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording in accordance with Councils Development Design and Construction Specifications.

[DUR2355]

82. 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]

83. All water drawn from Councils reticulated system shall be via a Tweed Shire Council metered standpipe. The location of the hydrant shall be nominated by Tweed Shire Council and all water shall be only used for the purposes nominated by the applicant for the duration of the construction activities.

[DUR2575]

84. Dust and Erosion Management

- (a) Site earthworks are to be limited to a 5ha maximum at any time to reduce exposed areas. Completed areas are to be topsoiled and seeded immediately to protect them from water and wind erosion.
- (b) All topsoil stockpiles are to be sprayed with dust suppression material such as "hydromulch", "dustex" or equivalent. All haul roads shall be regularly watered or treated with dust suppression material or as directed on site.
- (c) All construction activities that generate dust shall cease when average wind speeds exceed 15m/s (54 km/h). The applicant shall be responsible for the monitoring of on-site wind speeds and be able to produce this data to Council on request.

[DUR2825]

85. 60 days prior to lodgment of Application for Subdivision Certificate, an accurate plan of the subdivision is to be submitted to Council indicating all public land to be dedicated to Council (including Drainage Reserves, Sewer Pump Stations, Parks, Sports Fields, Conservation Areas and other lands as defined and excluding Roads, etc). The function of all such public land is to be indicated to allow classification of the land parcel by Council as either Operational or Community Land, as detailed in the Local Government Act 1993.

[DURNS01]

86. No earthmoving equipment shall operate within Lot 1803 'Proposed Public Reserve' (as shown on the approved subdivision layout plan) for the purpose of retaining wall construction or any other civil works unless otherwise approved by Council's General Manager or delegate.



87. Landscaping of the site shall be carried out in accordance with the submitted / approved landscaping plans.
88. The applicant must complete all remedial tree management works on the *Ficus virens var. sublanceolata* (White Fig) situated within Lot 1803 'Proposed Public Reserve' (as shown on the approved subdivision layout) in accordance with Section 3 titled 'Observations and Works Requirements' of the approved tree management plan being *Tree Assessment and Management Plan Seabreeze Estate Pottsville dated 04 February 2014 prepared by Boyds Bay Environmental Services* during the first of any stage of the development approved by way of this consent. A project arborist who holds a minimum Australian Qualification Framework (AQF) Level 5 Diploma of Horticulture (Arboriculture) qualification must be engaged to undertake arboricultural work stipulated in the approved tree management plan.
89. All works adjacent to or within thirty (30) metres of the *Ficus virens var. sublanceolata* (White Fig) situated within Lot 1803 'Proposed Public Reserve' (as shown on the approved subdivision layout) onsite must be undertaken in accordance with the approved tree management plan being *Tree Assessment and Management Plan Seabreeze Estate Pottsville dated 04 February 2014 prepared by Boyds Bay Environmental Services* to ensure the is retained and protected. A project arborist who holds a minimum Australian Qualification Framework (AQF) Level 5 Diploma of Horticulture (Arboriculture) qualification must be engaged to undertake arboricultural work stipulated in the approved tree management plan. The applicant must comply with any directions given by the project arborist in respect to tree management measures to be employed onsite during construction to minimise/avoid any adverse impacts.

[DURNS02]

#### PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

90. 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.
91. 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.

[PSC0005]

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

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

#### Stage 15

Water DSP6:	23 ET @ \$12575 per ET	\$289,225
Sewer Hastings Point:	23 ET @ \$6042 per ET	\$138,966

Stage 16

Water DSP6:	14 ET @ \$12575 per ET	\$176,050
Sewer Hastings Point:	14 ET @ \$6042 per ET	\$84,588

Stage 17

Water DSP6:	45 ET @ \$12575 per ET	\$565,875
Sewer Hastings Point:	45 ET @ \$6042 per ET	\$271,890

Stage 18

Water DSP6:	1 ET @ \$12575 per ET	\$12,575
Sewer Hastings Point:	1 ET @ \$6042 per ET	\$6,042

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

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

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

[PSC0165]

92. Section 94 Contributions

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

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

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

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

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

Stage 15

(a) Tweed Road Contribution Plan: 149.5 Trips @ \$1330 per Trips (\$1,284 base rate + \$46 indexation)	\$198,835
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S94 Plan No. 4		
Sector8_4		
(b)	Shirewide Library Facilities: 23 ET @ \$838 per ET (\$792 base rate + \$46 indexation) S94 Plan No. 11	\$19,274
(c)	Bus Shelters: 23 ET @ \$64 per ET (\$60 base rate + \$4 indexation) S94 Plan No. 12	\$1,472
(d)	Eviron Cemetery: 23 ET @ \$123 per ET (\$101 base rate + \$22 indexation) S94 Plan No. 13	\$2,829
(e)	Community Facilities (Tweed Coast - North) 23 ET @ \$1389 per ET (\$1,305.60 base rate + \$83.40 indexation) S94 Plan No. 15	\$31,947
(f)	Extensions to Council Administration Offices & Technical Support Facilities 23 ET @ \$1860.31 per ET (\$1,759.90 base rate + \$100.41 indexation) S94 Plan No. 18	\$42,787.13
(g)	Cycleways: 23 ET @ \$473 per ET (\$447 base rate + \$26 indexation) S94 Plan No. 22	\$10,879
(h)	Regional Open Space (Casual) 23 ET @ \$1091 per ET (\$1,031 base rate + \$60 indexation) S94 Plan No. 26	\$25,093
(i)	Regional Open Space (Structured): 23 ET @ \$3830 per ET (\$3,619 base rate + \$211 indexation) S94 Plan No. 26	\$88,090

Stage 16

(a)	Tweed Road Contribution Plan: 91 Trips @ \$1330 per Trips (\$1,284 base rate + \$46 indexation) S94 Plan No. 4 Sector8_4	\$121,030
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(b) Shirewide Library Facilities: 14 ET @ \$838 per ET (\$792 base rate + \$46 indexation) S94 Plan No. 11	\$11,732
(c) Bus Shelters: 14 ET @ \$64 per ET (\$60 base rate + \$4 indexation) S94 Plan No. 12	\$896
(d) Eviron Cemetery: 14 ET @ \$123 per ET (\$101 base rate + \$22 indexation) S94 Plan No. 13	\$1,722
(e) Community Facilities (Tweed Coast - North) 14 ET @ \$1389 per ET (\$1,305.60 base rate + \$83.40 indexation) S94 Plan No. 15	\$19,446
(f) Extensions to Council Administration Offices & Technical Support Facilities 14 ET @ \$1860.31 per ET (\$1,759.90 base rate + \$100.41 indexation) S94 Plan No. 18	\$26,044.34
(g) Cycleways: 14 ET @ \$473 per ET (\$447 base rate + \$26 indexation) S94 Plan No. 22	\$6,622
(h) Regional Open Space (Casual) 14 ET @ \$1091 per ET (\$1,031 base rate + \$60 indexation) S94 Plan No. 26	\$15,274
(i) Regional Open Space (Structured): 14 ET @ \$3830 per ET (\$3,619 base rate + \$211 indexation) S94 Plan No. 26	\$53,620

Stage 17

(a) Tweed Road Contribution Plan: 292.5 Trips @ \$1330 per Trips (\$1,284 base rate + \$46 indexation) S94 Plan No. 4 Sector8_4	\$389,025
(b) Shirewide Library Facilities: 45 ET @ \$838 per ET (\$792 base rate + \$46 indexation)	\$37,710

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S94 Plan No. 11		
(c)	Bus Shelters: 45 ET @ \$64 per ET (\$60 base rate + \$4 indexation) S94 Plan No. 12	\$2,880
(d)	Eviron Cemetery: 45 ET @ \$123 per ET (\$101 base rate + \$22 indexation) S94 Plan No. 13	\$5,535
(e)	Community Facilities (Tweed Coast - North) 45 ET @ \$1389 per ET (\$1,305.60 base rate + \$83.40 indexation) S94 Plan No. 15	\$62,505
(f)	Extensions to Council Administration Offices & Technical Support Facilities 45 ET @ \$1860.31 per ET (\$1,759.90 base rate + \$100.41 indexation) S94 Plan No. 18	\$83,713.95
(g)	Cycleways: 45 ET @ \$473 per ET (\$447 base rate + \$26 indexation) S94 Plan No. 22	\$21,285
(h)	Regional Open Space (Casual) 45 ET @ \$1091 per ET (\$1,031 base rate + \$60 indexation) S94 Plan No. 26	\$49,095
(i)	Regional Open Space (Structured): 45 ET @ \$3830 per ET (\$3,619 base rate + \$211 indexation) S94 Plan No. 26	\$172,350

Stage 18

(a)	Tweed Road Contribution Plan: 6.5 Trips @ \$1330 per Trips (\$1,284 base rate + \$46 indexation) S94 Plan No. 4 Sector8_4	\$8,645
(b)	Shirewide Library Facilities: 1 ET @ \$838 per ET (\$792 base rate + \$46 indexation) S94 Plan No. 11	\$838
(c)	Bus Shelters:	

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	1 ET @ \$64 per ET (\$60 base rate + \$4 indexation) S94 Plan No. 12	\$64
(d)	Eviron Cemetery: 1 ET @ \$123 per ET (\$101 base rate + \$22 indexation) S94 Plan No. 13	\$123
(e)	Community Facilities (Tweed Coast - North) 1 ET @ \$1389 per ET (\$1,305.60 base rate + \$83.40 indexation) S94 Plan No. 15	\$1,389
(f)	Extensions to Council Administration Offices & Technical Support Facilities 1 ET @ \$1860.31 per ET (\$1,759.90 base rate + \$100.41 indexation) S94 Plan No. 18	\$1,860.31
(g)	Cycleways: 1 ET @ \$473 per ET (\$447 base rate + \$26 indexation) S94 Plan No. 22	\$473
(h)	Regional Open Space (Casual) 1 ET @ \$1091 per ET (\$1,031 base rate + \$60 indexation) S94 Plan No. 26	\$1,091
(i)	Regional Open Space (Structured): 1 ET @ \$3830 per ET (\$3,619 base rate + \$211 indexation) S94 Plan No. 26	\$3,830

[PSC0175]

### 93. 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 for each Stage of the subdivision hereby approved. 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

[PSC0185]

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

The bond shall be based on 5% of the value of the works (minimum as tabled in Council's fees and charges current at the time of payment) which will be held by Council for a period of 6 months from the date on which the plan of subdivision is registered.

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

[PSC0215]

95. Prior to the issue of a Subdivision Certificate, a performance bond equal to 25% of the contract value of the footpath construction works shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths are built on.

Alternatively, the developer may elect to pay a cash contribution to the value of the footpath construction works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.

[PSC0225]

96. 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]

97. 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]

98. All retaining walls in excess of 1.2m are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the subdivision certificate application and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

In addition to the above certification, the following is to be included in the Section 88B Instrument to accompany the final plan of subdivision.

A restriction to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.3m in vertical height within a zone adjacent to the wall that is equal to the height of the wall.

Each lot burdened and or benefited by a Type 1 wall as defined in AS4678-2002 Earth Retaining Structures, shall contain a restriction to user advising the landowner of the need to maintain the wall in accordance with that standard.

Tweed Shire Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

[PSC0785]

99. 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]

100. 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]



101. 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) Identify all allotments to be created as dual occupancies;
  - (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 (relevant to interface areas between adjoining Stages), but are now no longer required;
  - (e) A designated visitor parking space is to be created within Lot 1718 due to its narrow street frontage, and is to be implemented in conjunction with construction of a dwelling on the site. An appropriate Restriction on Title is to be created over Lot 1718 accordingly;
  - (f) Easements and Restrictions as required for all retaining walls - both new and existing;
  - (g) Creation of a Drainage Easement and associated Restriction on Title over Lot 1607, to cater for a relief overland stormwater flowpath.

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]

102. 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.

[PSC0845]

103. 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]

104. 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]

105. 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
- (b) Compliance Certificate - Water Reticulation
- (c) Compliance Certificate - Sewerage Reticulation
- (d) 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]

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

[PSC0925]

107. A formal asset handover of all water quality control devices is to be implemented at the completion of the maintenance period ("Off Maintenance"), whereby all relevant stakeholders will inspect the device and be issued with a current operational manual for the device.

[PSC1025]

108. 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 gravity sewerage systems 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]

109. Prior to the release of the subdivision certificates for Stage 15 (or the first Stage being released) and Stage 17, the proponent shall:

- (a) Include on the Plan of Subdivision provision for dedication of the drainage reserves at no cost to Council.
- (b) Submit an accurate plan of the proposed drainage reserves to Council 60 days prior to lodgement of Application for Subdivision Certificate to allow the land to be classified.

[PSC1075]

110. 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]

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

[PSC1165]

112. 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. 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]

113. In accordance with the Federal Government's National Broadband Network (NBN) initiatives, the Developer is required (at the Developer's expense) to install a fibre ready, pit and pipe network (including trenching, design and third party certification) to NBN CO's Specifications, to allow for the installation of Fibre To The Home (FTTH) broadband services.

[PSC1205]

114. Prior to dedication of the proposed drainage reserves (Lot 1748 and Lot 1749), the developer shall undertake maintenance on the overland flow paths to reinstate them to their original design capacity.

[PSCNS01]

115. The Plan of Subdivision accompanying the Subdivision Certificate for Stages 17 and 18 shall include dedication of the relevant public reserves at no cost to Council. Prior to dedication, the public reserves shall be embellished in accordance with the approved detailed landscape plans, at no cost to Council.

The exception to this is playground equipment and softfall. Council will undertake the installation when 20% or more of the relevant stage's allotments are occupied. The developer must provide the appropriate level area for the play equipment with a minimum fall of 1:100, and a bank guarantee or cash contribution equivalent to the value of such items.

[PSCNS02]

116. The developer is to undertake care and maintenance operations on all streetscapes, casual open space and structured open space for a minimum of 12 months after the Subdivision is registered with the Land and Property Management Authority (Land Titles Office). This is the establishment period for new plantings. Such maintenance will include all soft landscaping, particularly mowing and weed control. Any power and water consumption costs during this period must also be met by the developer.

117. A bond to ensure acceptable plant establishment and landscaping performance at time of handover to Council shall be lodged by the Developer prior to the issue of any Subdivision Certificate. The bond shall be held by Council for a minimum period of 12 months from the date of issue of the Subdivision Certificate (or longer if required by the approved Landscaping Plan) 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 12 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.

118. Prior to issue of a Subdivision Certificate, Work as Executed Plans (WAX) must be submitted for all landscaped casual and active open space. These must show all underground services, irrigation systems and the location of concrete paths, structures, other park infrastructure and garden bed outlines.

The plans are to be certified by a registered surveyor or consulting engineer.

Two categories of WAX plans are to be provided:

- a) The original approved plan with any variation to this indicated.
- b) Plan showing only the actual as constructed information,

The plans are to be submitted in the following formats:

- a) 2 paper copies of the same scale and format as the approved plan.
- b) A PDF version on CD or an approved medium.
- c) An electronic copy in DWG or DXF format on CD or an approved medium.

[PSCNS03]

119. A certification report is to be provided to Council prior to the issue of the first of any subdivision certificate from the project arborist confirming that all remedial tree management works on the *Ficus virens var. sublancoolata* (White Fig) have been successfully completed and provide an evaluation of the health of the tree and if necessary, include recommendations for any further arboricultural works to improve the health and long term viability of the tree.
120. 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.
121. The following restrictions apply to dog and cat ownership and control on all residential lots:
  - a. Owners of dogs within the development shall have their yards fenced so as to securely contain a maximum of one (1) dog per allotment and the ownership of cats within the development shall be restricted to one de-sexed cat per allotment and such cats shall be restrained within the house or a secure night cage between the hours of 6.00pm and 6.00am.
  - b. No dog shall be registered without the construction of a dog-proof compound which must be approved by Council and the relevant fee paid by the applicant.
  - c. No owner can retrieve a dog that has been impounded unless they can demonstrate to Council they have a secure compound.

These ownership and control requirements shall be reinforced by a Restrictions as to User under Section 88B of the *Conveyancing Act, 1919-1964*.

[PSCNS04]

## GENERAL TERMS OF APPROVAL UNDER THE WATER ACT 1912

1. Before commencing any works or using any existing works for the purpose of dewatering an approval under Part V of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.

2. An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.
3. When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or let lapse.
4. All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
5. All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
6. The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
7. All vegetation clearing must be authorized under the Native Vegetation Conservation Act 1997, if applicable.
8. The approval to be granted may specify any precautions considered necessary to prevent pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.
9. A license fee calculated in accordance with the Water Act 1912 must be paid before a license can be granted.
10. The water extracted under the approval to be granted shall be used for the purpose of dewatering and for no other purpose. A proposed change in purpose will require a replacement license to be issued.
11. Works for construction of a bore must be completed within such period as specified by the Department.
12. Within two months after the works are completed the Department must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are specified in the approval.
13. The Department has the right to vary the volumetric allocation of the rate at which the allocation is taken in order to prevent the overuse of an aquifer.
14. The licensee must allow authorized officers of the Department, and it's authorized agents reasonable access to the licensed works with vehicles and equipment at any time for the purposes of:
  - 1) Inspecting the said work
  - 2) Taking samples of any water or material in the work and testing the samples
15. The licensee shall within 2 weeks of being notified install to the satisfaction of the Department in respect of location, type and construction an appliance(s) to measure

the quantity of water extracted from the works. The appliance(s) to consist of either a measuring weir or weirs with automatic recorder, or meter or meter(s) of measurement as may be approved by the Department. The appliance(s) shall be maintained in good working order and condition. A record of all water extracted from the works shall be kept and supplied to the Department upon request. The licensee when requested must supply a test certificate as to the accuracy of the appliance(s) furnished either by the manufacturer or by some person duly qualified.

16. The authorised work shall not be used for discharge of polluted water into a river or lake otherwise than in accordance with the conditions of a licence granted under the protection of the Environment Operations Act 1997. A copy of the licence to discharge is to be provided to the Department.
17. The maximum term of this licence shall be twelve (12) months.
18. The authorised work shall not be used for the discharge of water unless the ph of the water is between 6.5 and 8.6, or the water has been treated to bring the ph to a level between 6.5 and 8.5 prior to discharge, or the water is discharged through the council's sewerage treatment system.
19. The licensee shall test the ph of any water extracted from the work prior to the commencement of discharge and at least twice daily thereafter and record the date, time and result of each test in the site log. A copy of the records of the ph testing is to be returned with the form 'AG'.
20. The work shall be managed in accordance with the constraints set out in an Acid Sulfate Soil Management Plan and Dewatering Management Plan approved by the Department.
21. The retention or holding pond must be lined with an impermeable material (such as clay or geotextile) to prevent seepage, leakage or infiltration of treated water.

#### 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 drawings prepared by B & P Surveys, numbered M31385 (17850B - Revision E) and M31385 (17683 - Revision C) dated 29 January 2014.
2. At the issue of subdivision certificate and in perpetuity the entire area of each newly created lot 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. Prior to issue of a subdivision certificate, a fire management plan is to be prepared for the drainage reserves (asset protection zones) that addresses the following requirements:
  - a) Contact person/department and details; and
  - b) Schedule and description of works for the construction of asset protection zones and their continued maintenance.

4. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
5. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006', except that a perimeter road is not required.
6. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.
7. General advice - consent authority to note

Any future development application lodged for a 'special fire protection purpose' development within this subdivision will be subject to requirements as set out in 'Planning for Bush Fire Protection 2006'.

The Motion was **Carried**

**FOR VOTE - Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr B Longland**  
**AGAINST VOTE - Cr K Milne, Cr G Bagnall**  
**ABSENT. DID NOT VOTE - Cr P Youngblutt**

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- 6            **[PR-PC] Review of Determination of Development Application DA13/0221 for the Operation of a Pontoon Boat Hire Operation on the Tweed River from Fingal Boat Ramp with Passenger Pick Up/Set Down from Beach at Old Barney's Point Bridge Jetty at Lot 403 DP 755740 Main Road, Fingal Head; Lots 9-10 DP 24164 Nos. 10-12 Chinderah Bay Drive, Chinderah; Lots 9-12 DP 830655 Nos. 2-8 Chinderah Bay Drive, Chinderah; Tweed River, Tweed Heads**

**P 75**

**Cr W Polglase**  
**Cr C Byrne**

**PROPOSED** that the Review of Determination of Development Application DA13/0221 for the Operation of a Pontoon Boat Hire Operation on the Tweed River from Fingal Boat Ramp with Passenger Pick Up/Set Down from Beach at Old Barney's Point Bridge Jetty at Lot 403 DP 755740 Main Road, Fingal Head; Lots 9-10 DP 24164 Nos. 10-12 Chinderah Bay Drive, Chinderah; Lots 9-12 DP 830655 Nos. 2-8 Chinderah Bay Drive, Chinderah; Tweed River, Tweed Heads be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects dated July 2012 and Review of Determination document dated March 2014, both prepared by Darryl Anderson and Associates, except where varied by the conditions.

[GEN0005]



2. Advertising structures/signs to be the subject of a separate development application (where statutorily required).  
[GEN0065]
3. The use is for the operation and hire of a single pontoon boat. The boat shall be launched and retrieved from the Fingal boat ramp. Passengers shall be picked up and setdown from the beach adjacent to Old Barneys Bridge. All parking for the operation shall be at the BP Chinderah Service Station, No 2-12 Chinderah Bay Drive. The boat may be used for a maximum of nine passengers at any one time, if self driven, or 22 passengers if skippered. No bookings or advertising for the business shall be conducted from public land.  
[GENNS01]
4. Any approvals required by the relevant Maritime Authority shall be obtained prior to use.  
[GENNS02]

#### PRIOR TO COMMENCEMENT OF APPROVED USE

5. Prior to the approved use commencing the submission and approval of a Management Plan by the General Manager or delegate to cover all aspects of the development including:
    - Property description and details of the boat launch location and pick up/set down site.
    - Hours of operation.
    - Patron behaviour.
    - Protocols regarding the use of the carpark adjoining old Barneys Bridge for the drop off and pick up of personal items and passengers prior to parking passenger vehicles adjacent to the BP Chinderah.
    - Advice regarding the location and use of the BP Chinderah Service Station.
    - Boat speed restrictions.
    - Maritime regulations for safe boating.
    - Parameters for travel upon the boat including areas that the boat is prohibited to enter including shallow areas of the estuary containing seagrass and Tony's Bar Roost in the Fingal reach locality.
    - Limits on the number of persons onboard.
    - Limitations regarding the use of the beach near Barneys Point Bridge.
    - Waste disposal including sewerage tank pump out and any waste generated while on board the vessel or at the carpark at the BP Service Station Chinderah.  
[POCNS01]
  6. The applicant is to provide further details in regards to providing a suitable waste disposal service. This information is to be submitted to Council and approved by the
-

General Manager or delegate. The approved waste service shall be in place prior to the use commencing.

[POCNS02]

7. A licence for use of the public foreshore reserve for the purposes specified will be required. A license for the use of the Fingal Head Boat Ramp, and any other public waterways infrastructure (pontoons, jetties or wharves) that may be used by the proposal will also be required. Such a license would include conditions for use of the vessel sewage holding tank pump out facility provided at Foyster's Jetty on Minjungbal Drive. License conditions will also relate to the time that the vessel can be moored at a public facility.

[POCNS03]

8. Section 94 Contributions

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

Prior to the commencement of approved use, all Section 94 Contributions must have been paid in full and the applicant must have 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:  
8.8 Trips @ \$1176 per Trips \$6,209.40\*  
(\$1,137 base rate + \$39 indexation)  
(\$4,139.60 subtracted from total for commercial job creating developments)  
S94 Plan No. 4  
Sector6\_4

[POCNS04]

USE

9. 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]

10. Hours of operation of the business are restricted to the following hours: 8am to 4pm, 7 days per week.

[USE0185]

11. The use shall be conducted in accordance with the Management Plan approved by Council at all times.

[USENS01]

12. The vessel shall use the beach near the Barneys Point Bridge for pick up and drop off of passengers only. The vessel shall not be left at the beach unattended, nor should it be moored at the location for more than one hour. [USENS02]
13. Sewage holding tank pump out is to be undertaken at Foysters' Jetty. [USENS03]
14. There shall be no beaching of the vessel, or disembarkation of passengers from the vessel, to eliminate the potential for the vessel or passengers to disturb resident or migratory shorebirds using the Tony's Bar roost in the Fingal reach of the Tweed River. [USENS04]
15. The pontoon boat shall not operate in shallow waters within the estuary containing seagrass. These areas shall be identified to the operators prior to departure. [USENS05]

## AMENDMENT 1

### P 76

**Cr K Milne**  
**Cr G Bagnall**

**RECOMMENDED** that the Review of Determination of Development Application DA13/0221 for the Operation of a Pontoon Boat Hire Operation on the Tweed River from Fingal Boat Ramp with Passenger Pick Up/Set Down from Beach at Old Barney's Point Bridge Jetty at Lot 403 DP 755740 Main Road, Fingal Head; Lots 9-10 DP 24164 Nos. 10-12 Chinderah Bay Drive, Chinderah; Lots 9-12 DP 830655 Nos. 2-8 Chinderah Bay Drive, Chinderah; Tweed River, Tweed Heads be refused for the following reasons:

1. Pursuant to Section 5 Objects of the Environmental Planning & Assessment Act 1979 (as amended), the proposed development cannot be determined to satisfy sub section (a)(ii), the orderly and economic use and development of the land.

The proposal has the ability to reduce limited public foreshore area available to the public for a commercial operation accordingly the proposal is not identified as satisfying the Objects of the Environmental Planning & Assessment Act 1979.

2. Pursuant to Section 79C (1)(a)(i) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed development is not considered to be compliant with Environmental Planning Instruments.

The proposed development does not satisfy the provisions contained within:

The Tweed LEP 2000:

- Clause 4: Aims of this plan;
  - (a) The management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is retained.

The utilisation of this public area for commercial activities will preclude maximisation of this area now and in the future for public use.

- Clause 31: Development adjoining waterbodies.

(1) The development reduces the capacity for public access to the waterways.

3. Pursuant to Section 79C (1) (c) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed site is not considered suitable for the proposed development.

The use of limited public foreshore land for the purposes of commercial boat operation is considered unacceptable due to its impact on existing and future use of this area.

4. Pursuant to Section 79C (1) (b) of the Environmental Planning & Assessment Act 1979 (as amended) due to the likely impacts of the proposed development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

The proposed development would have an unacceptable impact with respect to loss of public foreshore for passive recreational river users in the operational area.

5. In accordance with Section 79C (1) (e) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed development is not considered to be in the public interest.

It is in the broader general public interest to ensure the adequate provision of public foreshore space for the wider community and visitors.

Amendment 1 was **Carried**

**FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland**

**AGAINST VOTE - Cr W Polglase, Cr C Byrne**

**ABSENT. DID NOT VOTE - Cr P Youngblutt**

Amendment 1 on becoming the Motion was **Carried** - (Minute No P 76 refers)

**FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland**

**AGAINST VOTE - Cr W Polglase, Cr C Byrne**

**ABSENT. DID NOT VOTE - Cr P Youngblutt**

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- 7 [PR-PC] Development Application D90/0436.08 for an Amendment to Development Consent D90/0436 for the Erection of a Tavern and Nine Shops at Lot 171 DP 629328 No. 28-40 Overall Drive, Pottsville

**P 77**

**Cr K Milne**

**Cr M Armstrong**

**RECOMMENDED** that Development Application D90/0436.08 for an amendment to Development Consent D90/0436 for the erection of a tavern and nine shops at Lot 171 DP 629328 No. 28-40 Overall Drive, Pottsville be refused for the following reasons:

1. The proposal would have a negative impact on the residential amenity of surrounding occupants; and
2. The proposal would not be in accordance with the public interest as it presents unacceptable impacts on the social and residential amenity of the area.

The Motion was **Carried**

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

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

**P 78**

**Cr W Polglase**  
**Cr C Byrne**

**RECOMMENDED** that Council notes the May 2014 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

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

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**ADJOURNMENT OF MEETING**

Adjournment for dinner at 6.33 pm.

**RESUMPTION OF MEETING**

The Meeting resumed at 7.29pm

**SUSPENSION OF STANDING ORDERS**

**P 79**

**Cr B Longland**  
**Cr C Byrne**

**RESOLVED** that Standing Orders be suspended to deal with a rescission motion in relation to Item 2 of the Agenda.

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The Motion was **Carried**

**FOR VOTE - Voting - Unanimous**

**ABSENT. DID NOT VOTE - Cr P Youngblutt**

**2 [NOR-PC] Development Application DA13/0307 for Alterations and Additions to Existing Footpath Trading/Dining Area at Marine Parade, Kingscliff**

**P 80**

**Cr C Byrne**

**Cr W Polglase**

**PROPOSED** that Development Application DA13/0307 for alterations and additions to existing footpath trading/dining area at Marine Parade, Kingscliff be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos WD03 Version f, WD07 Version f, prepared by iform building designs and dated May 2013 except where varied by the conditions and any approved plans as required by Schedule A.
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. No advertising is permitted on the awning/walls/partitions of the proposed dining area. [GEN0205]
5. The proposal is to comply at all times with Tweed Shire Councils adopted Footpath Dining Policy except where varied by this approval. [GEN0225]
6. The display of goods are not permitted without the written approval of the General Manager or delegate. [GENNS01]
7. Maintenance of the outdoor dining structures will be the responsibility of the applicant, or his successor in title, in accordance with Section 142 Roads Act 1993.

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

8. 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]

9. 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]

10. Design plans submitted with the Construction Certificate application shall include the following amendments:
- a) All access pathways shall be designed in accordance with the Australian Standard 1428.1 - 2009 Design for Access and Mobility;
  - b) All level changes must be eliminated between the access pathways and the outdoor dining areas for each tenancy;
  - c) Undercover footpath areas must be lit to AS1158 from dusk to dawn;
  - d) The southern access pathway shall be extended along the kerb line to meet the Marine Parade footpath;
  - e) All designated footpath and access pathway areas must remain free from obstruction at all times;
  - f) Footpath levels are to be provided along the interface with the raised dining blisters, to demonstrate no water ponding within the footpath area. Where ponding may occur, additional footpath drainage must be provided, discharging to the Council system;
  - g) Detail maintenance access to all public stormwater drainage services within the dining blisters.

#### PRIOR TO COMMENCEMENT OF WORK

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

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

[PCW0215]

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

[PCW0225]

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

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

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

[PCW0255]



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

[PCW0665]

#### DURING CONSTRUCTION

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

[DUR0005]

16. 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]

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

[DUR0245]

18. 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]

19. 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]

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

[DUR0405]

21. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.

[DUR0415]

22. 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]

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

[DUR1725]

24. 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]

25. 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]

26. All stormwater from roofed and paved areas are to be connected directly into road drainage pits where available, kerb and gutter drainage canal or inter allotment drainage line where provided.

All drainage systems shall comply with AS 3500.

[DUR2305]

#### PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

27. 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]

28. 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]

29. A structural engineers' certificate is to be submitted for the existing structures within the road reserve approved under DA02/1769 with any application for an occupation certificate under this consent.

[POCNS01]

#### USE

30. 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]

31. Footpath dining activities shall not be carried out unless a Footpath Dining License Agreement has been approved by the General Manager or his delegate. Footpath dining activities shall be restricted to the approved footpath dining area and carried out in accordance with Councils adopted Footpath Dining Policy.

[USE1105]

32. A minimum 2.0 metre wide clear unobstructed pedestrian pathway shall be maintained on the footpath.

33. The approved structures located within the road reserve are to be kept in good order and repair at all times.

[USENS01]

The Rescission Motion was **Lost**

**FOR VOTE - Cr W Polglase, Cr C Byrne**

**AGAINST VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland**

**ABSENT. DID NOT VOTE - Cr P Youngblutt**

## **RESUMPTION OF STANDING ORDERS**

**P 81**

**Cr B Longland  
Cr M Armstrong**

**RESOLVED** that Standing Orders be resumed.

The Motion was **Carried**

**FOR VOTE - Voting - Unanimous**

**ABSENT. DID NOT VOTE - Cr P Youngblutt**

- a8 [PR-PC] Development Application DA10/0801.02 for an Amendment to Development Consent DA10/0801 for the Cobaki Estate Subdivision of Precinct 6 Comprised of 442 Residential Lots (Including 1 Residual Lot) and Lots for Drainage, Open Space and Urban Infrastructure (JRPP) at Lot 1 DP 570076, Lots 54, Part Lot 199 & Lot 200 DP 755740 Piggabeen Road, Cobaki Lakes; Lot 1 DP 562222, Lot 1 DP 570077, Lot 1 DP 823679, Lot 2 DP 566529, Lots 46, 55, Part 199, 201, 202, 205, 206, 209, 228, 305 DP 755740 Sandy Lane, Cobaki Lakes**

## **DECLARATION OF INTEREST**

**Cr Milne** declared a Non-Pecuniary, Non-Significant conflict of interest in this item.

The nature of this interest is that a defamation claim by Mr Ell of LEDA Holdings, the owner of the Kings Forest and Cobaki developments, has been awarded against me for \$15,000.

Cr Milne will remain in the Chambers during discussion and voting on the merits of each application.

**P 82**

**Cr B Longland**  
**Cr M Armstrong**

**RECOMMENDED** that:

A. ATTACHMENTS 1, 2 and 3 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-  
(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

B. Development Application DA10/0801.02 for an amendment to Development Consent DA10/0801 for the Cobaki Estate subdivision of Precinct 6 comprised of 442 residential lots (including 1 residual lot) and lots for drainage, open space and urban infrastructure (JRPP) at Lot 1 DP 570076, Lots 54, Part Lot 199 & Lot 200 DP 755740 Piggabeen Road, Cobaki Lakes; Lot 1 DP 562222, Lot 1 DP 570077, Lot 1 DP 823679, Lot 2 DP 566529, Lots 46, 55, Part 199, 201, 202, 205, 206, 209, 228, 305 DP 755740 Sandy Lane, Cobaki Lakes be approved and the consent be amended as follows:

1. Delete Condition No. 10 and replace it with Condition No. 10A which reads as follows:

10A In accordance with Condition 38 of Project Application MP08\_0200, no works shall be undertaken within the Precinct 6 area that may impact upon (or contribute to an impact upon) the freshwater wetlands and Wallum Froglet habitat area until an appropriate agreement is entered into between the Proponent and the Office of Environment and Heritage that offsets the project's impact on biodiversity. This agreement shall include provision for alternative offsets to be delivered should monitoring indicate that an appropriate wetland environment is not achieved after an appropriate time. Evidence of such an agreement shall be forwarded to the Director General no later than 5 working days prior to works commencing in those areas.

Notwithstanding the above, the proponent shall prepare a detailed Wallum Froglet Compensatory Habitat Plan as per Section 4.3 of the Revised Freshwater Wetland Rehabilitation Plan prepared by James Warren and Associates, dated October 2010. In addition to these requirements, the Wallum Froglet Compensatory Habitat Plan must include the following information on the core breeding habitat areas:

- (i) Detail on how Wallum Froglet core breeding areas will be constructed and maintained;
- (ii) Detail on the design of fauna crossings where the fauna corridor is bisected by a road to ensure Wallum Froglet movement between core breeding habitat ponds is available;
- (iii) How threats to the survival of Wallum Froglet Habitat will be managed;
- (iv) Monitoring and reporting requirements including monitoring of Wallum Froglet usage of the core breeding habitat area, usage of fauna corridors, Wallum Froglet population size and breeding success, water

quality, habitat suitability and presence of exotic species (particularly Cane Toad and Gambusia); and

(v) A contingency planning option in the case of system failure

2. Insert new Condition 10.1 as follows:

10.1 The Proponent is responsible for the management of all Offset Areas for conservation purposes and the implementation of ongoing management and maintenance activities specified in all Environmental Management Plans, until such time that an agreement is reached with Council regarding the dedication of that land.

3. Delete Condition No. 11 and replace it with Condition No. 11A which reads as follows:

11A. The proponent must design, construct, operate and maintain the project to ensure that it does not adversely affect any remaining Wallum Froglet populations on, or adjacent the site.

4. Delete Condition No. 19 and replace it with Condition No. 19A which reads as follows:

19A. Evidence must be submitted to Council prior to the registration of any Plan of Residential Subdivision, demonstrating that works have been commenced in accordance with the Revised Saltmarsh Rehabilitation Plan by James Warren and Associates dated October 2010 and as specified within Condition 65 of MP08\_0200.

The works are to be undertaken in accordance with the timing and responsibilities contained within the approved, Final Saltmarsh Rehabilitation Plan.

5. Delete Condition No. 34 and replace it with Condition No. 34A which reads as follows:

34A. Prior to the issue of a Construction Certificate for civil works the following detail in accordance with Councils Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

(a) copies of compliance certificates relied upon

(b) four (4) copies of detailed engineering plans and specifications.

The detailed plans shall include but are not limited to the following:

Earthworks

Clearly showing pre and post development levels (spot levels and contours) at a legible scale.

Comply with the provisions of Council's Design Specification D6 – Site Regrading.

- Batter slopes on drain cross sections and in public open space areas shall not exceed 1:4 (v:h), unless otherwise authorised by Council.
- The maximum disturbed area (that has not been permanently vegetated) at any time shall not exceed 5ha, unless otherwise approved by the General Manager or his delegate
- Roadworks/furnishings
  - Providing road profiles complying with Council's Design Specification D1 – Road Design, unless approved otherwise by Council.
  - Stormwater drainage
- Water supply works
  - In general accordance with Yeats Consulting Engineers - Water Network Analyses, April 2011, Revision 03, unless modified otherwise by the conditions of this Consent.
- Sewerage works
  - In general accordance with Yeats Consulting Engineers - Master Sewer Reticulation Plan Revision C, unless modified otherwise by the conditions of this Consent.
- Landscaping works
- Sedimentation and erosion management plans
- Location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure)

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

6. Delete Condition No. 47 and replace it with Condition No. 47A which reads as follows:

47A. Any playgrounds provided must comply with the guidelines established in the Playground Audit for Tweed Shire Council (July 2009). Appendix 3 establishes the procedure for assessing nearby hazards and mitigation measures. The proposed open space areas for this stage as identified in Planit Consulting Drawing Set Dated March 2011 shall be designed to minimise the hazards to designated playground areas consistent with those mitigating features identified in Appendix 3A7 of the Playground Audit for Tweed Shire Council (July 2009). Detailed drawings and reporting outlining mitigation measures to be employed to mitigate risk are to be submitted for approval by the General Manager or his delegate. In proposing mitigation measures consideration of long term maintenance costs shall be considered and evaluated in any reporting.

7. Delete Condition No. 55 and replace it with Condition No. 55A which reads as follows:

55A One or more detailed Habitat Restoration Plan(s) must be submitted to and approved by Council in accordance with Council's draft guidelines (attached), and in accordance with specific matters listed in Condition C4 of Concept Plan MP 06\_0316. Such plan(s) must be prepared for Management Areas 10 and 13 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated April 2013 and representing compensatory offset for loss of habitat and Endangered Ecological Communities on the site in areas adjacent to the development. Where offset areas as detailed in the Revised Site Regeneration and Revegetation Plan are proposed as an alternate use within the subdivision plan (that is, other than as an environmental protection area such as park or drainage reserve lots), additional EEC and habitat offset areas must be designated elsewhere in a location suitable to the vegetation community and/or threatened species to be protected and their habitat restored, with such areas totalling at least as committed within Concept Plan MP06\_0316. The Habitat Restoration Plan(s) must also include:

- (a) a schedule and timing of works to be undertaken.
- (b) a statement of commitment by the consent holder to maintain the works until the relevant performance criteria of the Site Regeneration and Revegetation Plan are achieved and until such time as an agreement is reached with Council regarding the dedication of that land.
- (c) a statement of commitment by the consent holder that the works will be completed by qualified and experienced bush regeneration personnel.

8. Insert new Condition 55.1 as follows:

55.1 Following the successful rehabilitation of Management Areas 10 and 13 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated October 2013, the landowner shall offer to dedicate that land to Council.

9. Delete Condition No. 62 and replace it with Condition No. 62A which reads as follows:

62A. Should, following the proponent's best endeavours, National Rental Affordability Scheme (NRAS) (or equivalent) funding be available to provide affordable housing within the development in accordance with the approved Cobaki Estate Affordable Housing Study, a staging plan detailing the location, mix and type of dwellings to be provided as affordable rental accommodation is to be submitted to Council in accordance with the recommended strategy contained in the Cobaki Estate Affordable Housing Study (Final Version print date 14.1.2011) prepared for Leda Manorstead Pty Ltd. by Hill PDA and dated November 2010.

10. Delete Condition No. 63 and replace it with Condition No. 63A which reads as follows:

63A. Detailed design drawings for all road crossings over the nominated fauna corridor are to be submitted to the General Manager or his delegate for approval. Each crossing design shall incorporate four 3.0m wide x 1.8m high dry passage openings supported by plantings at underpass entrances, fencing and suitable "furniture" treatments where such openings are in addition to any culverts required for drainage purposes to enable a range of fauna to cross through the corridor and facilitate east-west connectivity for fauna across the site.

- 10a. Insert new Condition No. 64.1 as follows:

64.1 Prior to the issue of a Construction Certificate for Civil Works the proponent must reach an agreement with Council regarding a mechanism to fund in perpetuity the ongoing maintenance of the environment protection land.

11. Delete Condition No. 73 and replace it with Condition No. 73A which reads as follows:

73A. Prior to the commencement of construction works a Construction Environmental Management Plan (CEMP) must be prepared that covers the area of works. The CEMP shall be consistent with the Guideline for the Preparation of Environmental Management Plans (DIPNR, 2004). The CEMP shall include details sufficient to understand and avoid, mitigate and remedy all potential environmental impacts of the proposal during construction. The CEMP must include, but not be limited to all matters specified within Condition 25 of Project Application MP08\_0200 and be submitted to and approved by the PCA prior to commencement of construction, or within such period otherwise agreed by the General Manager or delegate.

12. Delete Condition No. 105 and replace it with Condition No. 105A which reads as follows:

105A. All waters that are to be discharged from the site during dry weather periods and wet weather periods up to the Q3 month rain event (as defined in Council's Design Specification D7 – Stormwater Quality) shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l. Where water is to be discharged from the site 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.

13. Delete Condition No. 117 and replace it with Condition No. 117A which reads as follows:

117A. The proposed passive parks are to be progressively dedicated as passive open space and suitably embellished at no cost to Council in accordance with the approved landscaping plan. Embellishment arrangements shall be in place prior to the issue of a Subdivision Certificate.



14. Delete Condition No. 119 and replace it with Condition No. 119A which reads as follows:

119A. Prior to the issue of a Subdivision Certificate, a performance bond equal to 25% of the contract value of the footpath and cycleway construction works shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths and cycleways are built on.

Alternatively, the developer may elect to pay a cash contribution to the value of the footpath and cycleway construction works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.

15. Delete Condition No. 120 and replace it with Condition No. 120A which reads as follows:

120A. A bond shall be lodged to ensure suitable care and maintenance is provided to plantings and turf over a 12 month establishment period. This care is required to achieve optimal plant establishment and performance. The bond shall be held by Council to ensure that the associated landscaping is maintained by the developer for a period of 12 months from the date of issue of a Subdivision Certificate.

The amount of the bond shall be 20% of the estimated cost of the landscaping.

16. Delete Condition No. 121 and replace it with Condition No. 121A which reads as follows:

121A. Cash Bond/Bank Guarantee

(a) A Cash Bond or Bank Guarantee to ensure that the approved Site Regeneration and Revegetation Plan (SRRP) is implemented and completed, must be lodged with Council prior to the release of the Subdivision Certificate. The amount of such bond will be based on the cost of environmental repair, enhancement and maintenance works remaining to be undertaken in accordance with the approved SRRP. In this regard, two (2) written quotes from suitably experienced and qualified bush regenerators (to the satisfaction of the General Manager or his delegate) must be submitted to Council which detail the cost of all works associated with the SRRP. The amount of the bond will be equivalent to 100% of the estimated cost of works.

(b) One third of the Cash Bond or Bank Guarantee will be refunded one year after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that works are being satisfactorily undertaken in accordance with the approved SRRP. A further one third of the Bond or Bank Guarantee will be refunded 3 years after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that works have been satisfactorily reached the defined half-

way stage of the SRRP. The final one third of the Bond or Bank Guarantee will be released 5 years after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that the SRRP has been satisfactorily completed.

- (c) Monitoring of the effectiveness of environmental repair, enhancement and maintenance works must be undertaken by an independent and suitably qualified and experienced bush regenerator at yearly intervals following initiation of the Environmental Restoration Plan SRRP works. Reports of this monitoring must provide the basis for the person issuing certification for the bond or bank guarantee refunding stages and must be annually submitted to Council as evidence. Any supplementary or approved adaptive management works deemed necessary by the independent bush regenerator during the life of the SRRP must be undertaken once the need is identified.

17. Delete Condition No. 133 and replace it with Condition No. 133A which reads as follows:

133A. The Plan of Proposed Subdivision shall dedicate the proposed drainage reserve adjacent to that stage of the development at no cost to Council. The proponent shall submit an accurate plan of the proposed drainage reserve to Council 60 days prior to lodgement of Application for Subdivision Certificate to allow the land to be classified.

18. Delete Condition No. 148 and replace it with Condition No. 148A which reads as follows:

148A. The staged embellishment of all areas of casual open space, structured open space, cycleways, pedestrian links and streetscapes is to be completed, consistent with the approved landscape plans, to the satisfaction of the General Manager Tweed Shire Council or delegate prior to issue of the Subdivision Certificate.

The Developer will be responsible for maintaining the installed playground equipment and softfall for a period of 6 months after 20% of the relevant stage's allotments have been occupied. A maintenance compliance bond of 5% of the total cost of the installed playground equipment and softfall must be paid to Council prior to the release of the relevant Subdivision Certificate for each stage. The bond will be return upon request at the completion of the maintenance period, if not expended during the maintenance period.

19. Delete Condition No. 155 and replace it with Condition No. 155A which reads as follows:

155A. Prior to the release of a Subdivision Certificate the land owner of the site of the future Cobaki Community Centre under Concept Plan Approval MP06\_0316 is to enter into a Deed of Agreement with Council such that the identified land is to be provided with a constructed road frontage and all normal urban services and dedicated to Council at no cost prior to the release of a Subdivision Certificate that would allow the creation of more than 2000 residential lots within the Cobaki development.

20. Delete Condition No. 158 and replace it with Condition No. 158A which reads as follows:

158A. Lots 602, 603 and 605 adjoining the central drain are to be dedicated as drainage reserve, not environmental open space as indicated on the 'Plan of Proposed Subdivision, Precinct 6 Drainage Reserves & Parks', reference Michel Group Services 6400-218, Issue A, dated 24/11/2010.

The Motion was **Carried**

**FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland**

**AGAINST VOTE - Cr W Polglase, Cr C Byrne**

**ABSENT. DID NOT VOTE - Cr P Youngblutt**

#### **AMENDMENT 1**

**P 83**

**Cr K Milne**

**Cr G Bagnall**

**PROPOSED** that:

- A. ATTACHMENTS 1, 2 and 3 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- B. Development Application DA10/0801.02 for an amendment to Development Consent DA10/0801 for the Cobaki Estate subdivision of Precinct 6 comprised of 442 residential lots (including 1 residual lot) and lots for drainage, open space and urban infrastructure (JRPP) at Lot 1 DP 570076, Lots 54, Part Lot 199 & Lot 200 DP 755740 Piggabeen Road, Cobaki Lakes; Lot 1 DP 562222, Lot 1 DP 570077, Lot 1 DP 823679, Lot 2 DP 566529, Lots 46, 55, Part 199, 201, 202, 205, 206, 209, 228, 305 DP 755740 Sandy Lane, Cobaki Lakes be approved and the consent be amended as follows:
- 1. Delete Condition No. 10 and replace it with Condition No. 10A which reads as follows:

10A In accordance with Condition 38 of Project Application MP08\_0200, no works shall be undertaken within the Precinct 6 area that may impact upon (or contribute to an impact upon) the freshwater wetlands and Wallum Froglet habitat area until an appropriate agreement is entered into between the Proponent and the Office of Environment and Heritage that offsets the project's impact on biodiversity. This agreement shall include provision for alternative offsets to be delivered should monitoring indicate that an appropriate wetland environment is not achieved after an appropriate time. Evidence of such an agreement shall be forwarded to the Director General no later than 5 working days prior to works commencing in those areas.

Notwithstanding the above, the proponent shall prepare a detailed Wallum Froglet Compensatory Habitat Plan as per Section 4.3 of the Revised

Freshwater Wetland Rehabilitation Plan prepared by James Warren and Associates, dated October 2010. In addition to these requirements, the Wallum Froglet Compensatory Habitat Plan must include the following information on the core breeding habitat areas:

- (i) Detail on how Wallum Froglet core breeding areas will be constructed and maintained;
- (ii) Detail on the design of fauna crossings where the fauna corridor is bisected by a road to ensure Wallum Froglet movement between core breeding habitat ponds is available;
- (iii) How threats to the survival of Wallum Froglet Habitat will be managed;
- (iv) Monitoring and reporting requirements including monitoring of Wallum Froglet usage of the core breeding habitat area, usage of fauna corridors, Wallum Froglet population size and breeding success, water quality, habitat suitability and presence of exotic species (particularly Cane Toad and Gambusia); and
- (v) A contingency planning option in the case of system failure

2. Insert new Condition 10.1 as follows:

10.1 The Proponent is responsible for the management of all Offset Areas for conservation purposes and the implementation of ongoing management and maintenance activities specified in all Environmental Management Plans, until such time that an agreement is reached with Council regarding the dedication of that land.

3. Delete Condition No. 11 and replace it with Condition No. 11A which reads as follows:

11A. The proponent must design, construct, operate and maintain the project to ensure that it does not adversely affect any remaining Wallum Froglet populations on, or adjacent the site.

4. Delete Condition No. 19 and replace it with Condition No. 19A which reads as follows:

19A. Evidence must be submitted to Council prior to the registration of any Plan of Residential Subdivision, demonstrating that works have been commenced in accordance with the Revised Saltmarsh Rehabilitation Plan by James Warren and Associates dated October 2010 and as specified within Condition 65 of MP08\_0200.  
The works are to be undertaken in accordance with the timing and responsibilities contained within the approved, Final Saltmarsh Rehabilitation Plan.

5. Delete Condition No. 34 and replace it with Condition No. 34A which reads as follows:

34A. Prior to the issue of a Construction Certificate for civil works the following detail in accordance with Councils Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

- (a) copies of compliance certificates relied upon
- (b) four (4) copies of detailed engineering plans and specifications.

The detailed plans shall include but are not limited to the following:

- Earthworks
  - Clearly showing pre and post development levels (spot levels and contours) at a legible scale.
  - Comply with the provisions of Council's Design Specification D6 – Site Regrading.
  - Batter slopes on drain cross sections and in public open space areas shall not exceed 1:4 (v:h), unless otherwise authorised by Council.
  - The maximum disturbed area (that has not been permanently vegetated) at any time shall not exceed 5ha, unless otherwise approved by the General Manager or his delegate
- Roadworks/furnishings
  - Providing road profiles complying with Council's Design Specification D1 – Road Design, unless approved otherwise by Council.
  - Stormwater drainage
- Water supply works
  - In general accordance with Yeats Consulting Engineers - Water Network Analyses, April 2011, Revision 03, unless modified otherwise by the conditions of this Consent.
- Sewerage works
  - In general accordance with Yeats Consulting Engineers - Master Sewer Reticulation Plan Revision C, unless modified otherwise by the conditions of this Consent.
- Landscaping works
- Sedimentation and erosion management plans
- Location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure)

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

6. Delete Condition No. 47 and replace it with Condition No. 47A which reads as follows:

47A. Any playgrounds provided must comply with the guidelines established in the Playground Audit for Tweed Shire Council (July 2009). Appendix 3

establishes the procedure for assessing nearby hazards and mitigation measures. The proposed open space areas for this stage as identified in Planit Consulting Drawing Set Dated March 2011 shall be designed to minimise the hazards to designated playground areas consistent with those mitigating features identified in Appendix 3A7 of the Playground Audit for Tweed Shire Council (July 2009). Detailed drawings and reporting outlining mitigation measures to be employed to mitigate risk are to be submitted for approval by the General Manager or his delegate. In proposing mitigation measures consideration of long term maintenance costs shall be considered and evaluated in any reporting.

7. Delete Condition No. 55 and replace it with Condition No. 55A which reads as follows:

55A One or more detailed Habitat Restoration Plan(s) must be submitted to and approved by Council in accordance with Council's draft guidelines (attached), and in accordance with specific matters listed in Condition C4 of Concept Plan MP 06\_0316. Such plan(s) must be prepared for Management Areas 10 and 13 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated April 2013 and representing compensatory offset for loss of habitat and Endangered Ecological Communities on the site in areas adjacent to the development. Where offset areas as detailed in the Revised Site Regeneration and Revegetation Plan are proposed as an alternate use within the subdivision plan (that is, other than as an environmental protection area such as park or drainage reserve lots), additional EEC and habitat offset areas must be designated elsewhere in a location suitable to the vegetation community and/or threatened species to be protected and their habitat restored, with such areas totalling at least as committed within Concept Plan MP06\_0316. The Habitat Restoration Plan(s) must also include:

- (a) a schedule and timing of works to be undertaken.
- (b) a statement of commitment by the consent holder to maintain the works until the relevant performance criteria of the Site Regeneration and Revegetation Plan are achieved and until such time as an agreement is reached with Council regarding the dedication of that land.
- (c) a statement of commitment by the consent holder that the works will be completed by qualified and experienced bush regeneration personnel.

8. Insert new Condition 55.1 as follows:

55.1 Following the successful rehabilitation of Management Areas 10 and 13 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated October 2013, the landowner shall offer to dedicate that land to Council.

9. Delete Condition No. 62 and replace it with Condition No. 62A which reads as follows:

62A. Should, following the proponent's best endeavours, National Rental Affordability Scheme (NRAS) (or equivalent) funding be available to provide affordable housing within the development in accordance with the approved Cobaki Estate Affordable Housing Study, a staging plan detailing the location, mix and type of dwellings to be provided as affordable rental accommodation is to be submitted to Council in accordance with the recommended strategy contained in the Cobaki Estate Affordable Housing Study (Final Version print date 14.1.2011) prepared for Leda Manorstead Pty Ltd. by Hill PDA and dated November 2010.

10. Insert new Condition No. 64.1 as follows:

64.1 Prior to the issue of a Construction Certificate for Civil Works the proponent must reach an agreement with Council regarding a mechanism to fund in perpetuity the ongoing maintenance of the environment protection land.

11. Delete Condition No. 73 and replace it with Condition No. 73A which reads as follows:

73A. Prior to the commencement of construction works a Construction Environmental Management Plan (CEMP) must be prepared that covers the area of works. The CEMP shall be consistent with the Guideline for the Preparation of Environmental Management Plans (DIPNR, 2004). The CEMP shall include details sufficient to understand and avoid, mitigate and remedy all potential environmental impacts of the proposal during construction. The CEMP must include, but not be limited to all matters specified within Condition 25 of Project Application MP08\_0200 and be submitted to and approved by the PCA prior to commencement of construction, or within such period otherwise agreed by the General Manager or delegate.

12. Delete Condition No. 105 and replace it with Condition No. 105A which reads as follows:

105A. All waters that are to be discharged from the site during dry weather periods and wet weather periods up to the Q3 month rain event (as defined in Council's Design Specification D7 – Stormwater Quality) shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l. Where water is to be discharged from the site 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.

13. Delete Condition No. 117 and replace it with Condition No. 117A which reads as follows:

117A. The proposed passive parks are to be progressively dedicated as passive open space and suitably embellished at no cost to Council in accordance with the approved landscaping plan. Embellishment arrangements shall be in place prior to the issue of a Subdivision Certificate.

14. Delete Condition No. 119 and replace it with Condition No. 119A which reads as follows:

119A. Prior to the issue of a Subdivision Certificate, a performance bond equal to 25% of the contract value of the footpath and cycleway construction works shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths and cycleways are built on.

Alternatively, the developer may elect to pay a cash contribution to the value of the footpath and cycleway construction works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.

15. Delete Condition No. 120 and replace it with Condition No. 120A which reads as follows:

120A. A bond shall be lodged to ensure suitable care and maintenance is provided to plantings and turf over a 12 month establishment period. This care is required to achieve optimal plant establishment and performance. The bond shall be held by Council to ensure that the associated landscaping is maintained by the developer for a period of 12 months from the date of issue of a Subdivision Certificate.

The amount of the bond shall be 20% of the estimated cost of the landscaping.

16. Delete Condition No. 121 and replace it with Condition No. 121A which reads as follows:

121A. Cash Bond/Bank Guarantee

(a) A Cash Bond or Bank Guarantee to ensure that the approved Site Regeneration and Revegetation Plan (SRRP) is implemented and completed, must be lodged with Council prior to the release of the Subdivision Certificate. The amount of such bond will be based on the cost of environmental repair, enhancement and maintenance works remaining to be undertaken in accordance with the approved SRRP. In this regard, two (2) written quotes from suitably experienced and qualified bush regenerators (to the satisfaction of the General Manager or his delegate) must be submitted to Council which detail the cost of all works associated with the SRRP. The amount of the bond will be equivalent to 100% of the estimated cost of works.

(b) One third of the Cash Bond or Bank Guarantee will be refunded one year after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that works are being satisfactorily undertaken in accordance with the approved SRRP. A further one third of the Bond or Bank Guarantee will be refunded 3 years after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that works have been satisfactorily reached the defined half-way stage of the SRRP. The final one third of the Bond or Bank



Guarantee will be released 5 years after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that the SRRP has been satisfactorily completed.

- (c) Monitoring of the effectiveness of environmental repair, enhancement and maintenance works must be undertaken by an independent and suitably qualified and experienced bush regenerator at yearly intervals following initiation of the Environmental Restoration Plan SRRP works. Reports of this monitoring must provide the basis for the person issuing certification for the bond or bank guarantee refunding stages and must be annually submitted to Council as evidence. Any supplementary or approved adaptive management works deemed necessary by the independent bush regenerator during the life of the SRRP must be undertaken once the need is identified.

17. Delete Condition No. 133 and replace it with Condition No. 133A which reads as follows:

133A. The Plan of Proposed Subdivision shall dedicate the proposed drainage reserve adjacent to that stage of the development at no cost to Council. The proponent shall submit an accurate plan of the proposed drainage reserve to Council 60 days prior to lodgement of Application for Subdivision Certificate to allow the land to be classified.

18. Delete Condition No. 148 and replace it with Condition No. 148A which reads as follows:

148A. The staged embellishment of all areas of casual open space, structured open space, cycleways, pedestrian links and streetscapes is to be completed, consistent with the approved landscape plans, to the satisfaction of the General Manager Tweed Shire Council or delegate prior to issue of the Subdivision Certificate.

The Developer will be responsible for maintaining the installed playground equipment and softfall for a period of 6 months after 20% of the relevant stage's allotments have been occupied. A maintenance compliance bond of 5% of the total cost of the installed playground equipment and softfall must be paid to Council prior to the release of the relevant Subdivision Certificate for each stage. The bond will be return upon request at the completion of the maintenance period, if not expended during the maintenance period.

19. Delete Condition No. 155 and replace it with Condition No. 155A which reads as follows:

155A. Prior to the release of a Subdivision Certificate the land owner of the site of the future Cobaki Community Centre under Concept Plan Approval MP06\_0316 is to enter into a Deed of Agreement with Council such that the identified land is to be provided with a constructed road frontage and all normal urban services and dedicated to Council at no cost prior to the release of a Subdivision Certificate that would allow the creation of more than 2000 residential lots within the Cobaki development.

20. Delete Condition No. 158 and replace it with Condition No. 158A which reads as follows:

158A. Lots 602, 603 and 605 adjoining the central drain are to be dedicated as drainage reserve, not environmental open space as indicated on the 'Plan of Proposed Subdivision, Precinct 6 Drainage Reserves & Parks', reference Michel Group Services 6400-218, Issue A, dated 24/11/2010.

Amendment 1 was **Lost** on the Casting Vote of the Mayor (Minute No P 83 refers)

**FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall**  
**AGAINST VOTE - Cr W Polglase, Cr C Byrne, Cr B Longland**  
**ABSENT. DID NOT VOTE - Cr P Youngblutt**

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## ORDERS OF THE DAY

- 9 [NOR-PC] Development Application DA13/0591 - Erection of Four Townhouses at Lots 25 and 26 Section 5 DP 4043 Nos. 36 and 38 Enid Street, Tweed Heads

This item was dealt with earlier at the meeting Minute No P 64 refers.

- 10 [NOM-PC] Development Application DA13/0591 - Erection of Four Townhouses at Lots 25 and 26 Section 5 DP 4043 Nos. 36 and 38 Enid Street, Tweed Heads

This item was dealt with earlier at the meeting Minute No P 65 refers.

- 11 [NOR-PC] Development Application DA13/0594 for a Detached Dual Occupancy at Lot 24 Section 5 DP 4043 No 40 Enid Street, Tweed Heads

This item was dealt with earlier at the meeting Minute No P 66 refers.

- 12 [NOM-PC] Development Application DA13/0594 for a Detached Dual Occupancy at Lot 24 Section 5 DP 4043 No. 40 Enid Street, Tweed Heads

This item was dealt with earlier at the meeting Minute No P 67 refers.

## CONFIDENTIAL COMMITTEE

**P 84**

**Cr C Byrne**  
**Cr M Armstrong**

**RESOLVED** that Planning Committee 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 - Voting - Unanimous**  
**ABSENT. DID NOT VOTE - Cr P Youngblutt**

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:-

**P 85**

**RECOMMENDED** that the recommendations of the Confidential Committee be adopted.

**C1 [PR-PC] Unauthorised Earthworks and Pollution Events at Lots 113, 124, 127-129, 136 and 138 DP 755724 Tyalgum Road, Tyalgum**

**RECOMMENDED** that Council, in respect of the unauthorised earthworks and pollution events affecting parts of the property described as Lots 113, 124, 127-129, 136 and 138 DP 755724 Tyalgum Road, Tyalgum, and adjoining properties, including Hopping Dicks Creek:

1. Receives and notes this report;
2. Defers consideration of its own further legal and enforcement actions, to provide more time to appraise the extent of compliance action being undertaken by the NSW Crown Lands Division relating to the Crown Reserve affecting the subject site; and
3. A further report be submitted to the July Planning Committee Meeting providing an update of the action in Point 2, and advice on the options for further legal and enforcement action.

The Motion was **Carried**

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

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**C2 [PR-PC] Development Application DA13/0397 for an Extension to Existing Car Park at Lot 2 DP 1059784 No. 16 Pearl Street, Kingscliff; Lot 100 DP 1071633 No. 24-26 Pearl Street, Kingscliff**

**RECOMMENDED** that Council, in respect of the current Class 1 Land and Environment Court Proceedings relating to Development Application DA13/0397 for an extension to existing car park at Lot 2 DP 1059784 No. 16 Pearl Street, Kingscliff and Lot 100 DP 1071633 No. 24-26 Pearl Street, Kingscliff, endorses the recommendations as contained within this report.

The Motion was **Carried** on the Casting Vote of the Mayor.

**FOR VOTE - Cr W Polglase, Cr K Milne, Cr B Longland**  
**AGAINST VOTE - Cr C Byrne, Cr M Armstrong, Cr G Bagnall**  
**ABSENT. DID NOT VOTE - Cr P Youngblutt**

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There being no further business the Planning Committee Meeting terminated at 8.08pm.

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