



TWEED
SHIRE COUNCIL

Mayor: Cr B Longland (Mayor)

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

Minutes

Ordinary Council Meeting Tuesday 21 February 2012

held at Murwillumbah Cultural and Civic Centre
commencing at 10.30am

COUNCIL'S CHARTER

Tweed Shire Council's charter comprises a set of principles that are to guide Council in the carrying out of its functions, in accordance with Section 8 of the Local Government Act, 1993.

Tweed Shire Council has the following charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;
- to exercise community leadership;
- to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism;
- to promote and to provide and plan for the needs of children;
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development;
- to have regard to the long term and cumulative effects of its decisions;
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible;
- to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government;
- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants;
- to keep the local community and the State government (and through it, the wider community) informed about its activities;
- to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected;
- to be a responsible employer.

The Meeting commenced at 10.30am.

IN ATTENDANCE

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

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

ABORIGINAL STATEMENT

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

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

PRAYER

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

"Reading from Matthew Chapter 6 Verses 9-13 (King James Version)

- 9 *After this manner therefore pray ye: Our Father which art in heaven, Hallowed be thy name.*
- 10 *Thy kingdom come. Thy will be done in earth, as it is in heaven.*
- 11 *Give us this day our daily bread.*
- 12 *And forgive us our debts, as we forgive our debtors.*
- 13 *And lead us not into temptation, but delivery us from evil: For thine is the kingdom, and power, and the glory, forever. Amen.*

As we open this meeting with prayer, let us follow the model that our Lord Jesus gave us.

Oh Lord our God, we honour you as Lord of this earth, Lord of this nation and Lord of this shire. We pray that your will be done not the will of any man, but that your will, will be accomplished through your servants on this council. We pray that every person in this shire will be fed and not go hungry, and we thank you for the bountiful provision you bring through this shire. We ask for your forgiveness for the times we have strayed from your commands and ask that you help us to remain in a spirit of forgiveness toward our fellow man. I pray that you would protect us and delivery us from any and all evil, for your Kingdom, Power and Glory are from everlasting to everlasting.

In Christ we pray, Amen."

CONFIRMATION OF MINUTES

1 [CONMIN] Confirmation of the Minutes of the Ordinary and Confidential Council Meetings held Tuesday January 24 January 2012

61

Cr P Youngblutt
Cr D Holdom

RESOLVED that the Minutes of the Ordinary and Confidential Council Meetings held Tuesday 24 January 2012 be adopted as a true and accurate record of proceedings of that meeting with the following amendments:

K Milne's Declaration of Interest and/or Statement is to be noted at Items 6, 45 and the Mayoral Minute.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

APOLOGIES

Cr Kevin Skinner.

Cr Skinner has notified the General Manager that his absence is due to his attendance at the 2012 NSW Flood Mitigation Conference in Batemans Bay.

62

Cr D Holdom
Cr P Youngblutt

RESOLVED that the apology of Cr K Skinner be accepted and the necessary leave of absence be granted due to his attendance at the 2012 NSW Flood Mitigation Conference in Batemans Bay.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

DISCLOSURE OF INTEREST

Cr D Holdom wishes to declare that she no longer has a conflict of interest in matters relating to the Food Industry, as described under Section 7.5 and 7.6 of the Code.

Cr D Holdom wishes to declare a significant, non pecuniary Interest in Item 35. The Nature of the interest is that Cr Holdom's spouse is a member of the Executive of the Cudgen Headland Surf Lifesaving Club.

Cr Holdom will manage the conflict by leaving the chamber and not taking part in the discussion or voting.

Declaration Cobaki/Kings Forest - Cr K Milne

Cr K Milne made a statement with regard to Item 47:

I would like to make a statement to clarify my participation in relation to Item 47 in today's business papers.

I have considered the relevant provisions of Council's Code of conduct and I believe there are no impediments to me participating in debate and voting on these matters despite a defamation claim served against me, on 20 December 2010, by Mr William Robert (Bob) Ell, the owner of Kings Forest and Cobaki developments.

I am of the view that these circumstances do not create a private interest for me in these items, either directly or by association.

As many will be aware, I have had an ongoing involvement in the larger policy issues of greenfield developments well before 20 December 2010, and I will continue to participate in discussion and voting on such matters from a public interest perspective, and - where an item involves consideration of a development application - on merits of each application."

Cr K Milne wishes to declare that she no longer has a conflict of interest in matters relating to the Food Industry, as described under Section 7.5 and 7.6 of the Code.

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

Nil.

SCHEDULE OF OUTSTANDING RESOLUTIONS

2 [SOR] Schedule of Outstanding Resolutions

The Schedule of Outstanding Resolutions was received and noted.

Note: The General Manager advised that he will forward a further letter of request the Federal Member with regard to Item 56.

The General Manager further noted that the current status has changed for Item 46. The Cross Border Commissioner has now been appointed and the General Manager intends to seek a meeting with The Commissioner to discuss relevant issues.

MAYORAL MINUTE

3 [MM] Mayoral Minute for the Period 6 January to 5 February 2012

63

Cr B Longland

RESOLVED that:-

1. The Mayoral Minute for the period 6 January to 5 February 2012 be received and noted.
2. The attendance of Councillors at the Conferences be authorised as follows:

Cr J van Lieshout

- 22-24 Mar 2012 2012 Australian Local Government Women's Association (NSW) Conference - Dubbo Regional Theatre & Convention Centre, Dubbo.

The Motion was **Carried**

***FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner***

4 [MM] Mayoral Minute - 2012 National General Assembly of Local Government - Call for Motions

64

Cr B Longland

RESOLVED that Council notes the request for Motions for submission for consideration at the National General Assembly of Local Government.

The Motion was **Carried**

***FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner***

5 [MM] Mayoral Minute - Southern Cross University (SCU) - Engineering, Science and Planning Programs

65

Cr B Longland

RESOLVED That Council provides a letter of support for Southern Cross University's bid to develop an Engineering and Science facility at the Lismore Campus.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

66

Cr D Holdom
Cr P Youngblutt

RESOLVED that Standing Orders be suspended to deal with late Items a5 and b5 which were tabled at the meeting.

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

URGENCY MOTION

67

Cr B Longland
Cr P Youngblutt

RESOLVED that Council considers the late Notice of Rescission and subsequent proposed Notice of Motion as they are considered to be of great urgency.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

a5 [NOR-Crs B Longland, D Holdom and P Youngblutt] [MM] Mayoral Minute - LEDA Reports, Cobaki and Kings Forest

DECLARATION

Cr K Milne made a statement with regard to this Item

I would like to make a statement to clarify my participation in relation to the late Notice of Rescission tabled at today's meeting.

I have considered the relevant provisions of Council's Code of conduct and I believe there are no impediments to me participating in debate and voting on these matters despite a defamation claim served against me, on 20 December 2010, by Mr William Robert (Bob) Ell, the owner of Kings Forest and Cobaki developments.

I am of the view that these circumstances do not create a private interest for me in these items, either directly or by association.

As many will be aware, I have had an ongoing involvement in the larger policy issues of greenfield developments well before 20 December 2010, and I will continue to participate in discussion and voting on such matters from a public interest perspective, and - where an item involves consideration of a development application - on merits of each application."

68

**Cr B Longland
Cr P Youngblutt**

RESOLVED that the (Lost) recommendation at Minute No 17, Item No 5, of the meeting held 24 January 2012 being:

1. Council endorses the engagement of Blackadder Consulting to undertake the role as outlined in this minute in consultation with, and subject to, agreement from LEDA.
2. The ATTACHMENT is CONFIDENTIAL in accordance with Section 10A(2)(a) of the Local Government Act 1993, because it contains:
 - (a) personnel matter concerning particular individuals (other than Councillors).

BE RESCINDED (thereby allowing the item to be reconsidered at this meeting).

The Motion was **Carried**

**FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner**

b5 [NOM-Cr B Longland] LEDA Reports, Cobaki and Kings Forest

DECLARATION

Cr K Milne made a statement with regard to this Item

I would like to make a statement to clarify my participation in relation to the late Notice of Rescission tabled at today's meeting.

I have considered the relevant provisions of Council's Code of conduct and I believe there are no impediments to me participating in debate and voting on these matters despite a defamation claim served against me, on 20 December 2010, by Mr William Robert (Bob) Ell, the owner of Kings Forest and Cobaki developments.

I am of the view that these circumstances do not create a private interest for me in these items, either directly or by association.

As many will be aware, I have had an ongoing involvement in the larger policy issues of greenfield developments well before 20 December 2010, and I will continue to participate in discussion and voting on such matters from a public interest perspective, and - where an item involves consideration of a development application - on merits of each application."

69

**Cr B Longland
Cr D Holdom**

RESOLVED that Council engages a third party, mutually acceptable to both LEDA and Council, to undertake the role as outlined in the Mayoral Minute of 24 January 2012 and that such engagement be compliant with Council's procurement policy. Councillors to be further advised in relation to the sourcing of funds for the consultancy when the costs are known.

The Motion was **Carried**

**FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner**

70

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Standing Orders be resumed.

**FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner**

6 [GM-CM] Destination Tweed Quarterly Performance Report - October to December 2011

71

**Cr D Holdom
Cr J van Lieshout**

RESOLVED that:

1. Council endorses Destination Tweed's Quarterly Report for the quarter October to December 2011.
2. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains:-
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

The Motion was **Carried**

***FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner***

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

7 [PR-CM] Rural Fire Service - 2012/2013 Estimates

72

**Cr K Milne
Cr D Holdom**

RESOLVED that Council accepts and approves the 2012/2013 estimates from the District New South Wales Rural Fire Services as submitted.

The Motion was **Carried**

***FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner***

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

73

**Cr D Holdom
Cr J van Lieshout**

RESOLVED that Council notes the December 2011 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 K Skinner**

9 [PR-CM] Development Application DA11/0526 for Extensions to Existing Storage Facility and Reconfiguration of Existing Depot for Truck Storage and Landscaping Supplies at Lot 2 DP 863736; No. 942 Cudgera Creek Road, Cudgera Creek

74

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Development Application DA11/0526 for extensions to existing storage facility and reconfiguration of existing depot for truck storage and landscaping supplies at Lot 2 DP 863736; No. 942 Cudgera Creek Road, Cudgera Creek be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and:
 - Plan No. 1364C Amendment 2 Sheet 1 of 5 (Site Plan / Sign Elevation), prepared by Parameter Designs and dated 6 February 2012
 - Plan No. 1364C Amendment 2 Sheet 2 of 5 (Site, Erosion and Stormwater Plan), prepared by Parameter Designs and dated 6 February 2012
 - Plan No. 1364C Amendment 2 Sheet 3 of 5 (Floor Plans - Buildings E, F, G and H), prepared by Parameter Designs and dated 6 February 2012
 - Plan No. 1364C Amendment 2 Sheet 4 of 5 (Elevations - Buildings E, F, G and H), prepared by Parameter Designs and dated 6 February 2012
 - Plan No. 1364C Amendment 2 Sheet 5 of 5 (Cross Sections - Buildings E, F, G and H), prepared by Parameter Designs and dated 6 February 2012

except where varied by the conditions of this consent.

[GEN0005]

2. Additional advertising structures/signs are to be the subject of a separate development application (where statutorily required).

[GEN0065]
3. The storage sheds are to stand a minimum of 22.4 metres from the northern boundary of the property.

[GEN0095]
4. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0115]
5. 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]
6. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.

[GEN0265]
7. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0300]
8. Site and soil disturbances or commercial activities shall not be located closer than 100m to the former cattle dip site.

[GENNS01]
9. Any associated signage displayed on the subject site is to be directed towards Cudgera Creek Road and not the Pacific Highway.

[GENNS02]
10. The storage shed area and the landscaping yard area shall not be used for residential purposes.

[GENNS03]
11. With regard to the operation of the landscaping supplies component, no direct sales are to be made to the public. Sales are to be made by phone order or the like and all material leaving the site is to be transported by the operator's truck/s only. Associated advertising signage is to include wording that reflects and reinforces this arrangement.

[GENNS04]
12. The truck storage depot is only to be used for trucks associated with the landscaping supply business.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

13. Pursuant to Section 80A(1)(B) of the Environmental Planning and Assessment Act, 1979 (as amended) and Clause 97 of the Environmental Planning and Assessment Regulations, 2000 amended development consent No. DA02/0594.04 dated 7 July 2003 shall be surrendered by lodgement of the prescribed information suitably executed, PRIOR to the issue of a Construction Certificate.

[PCC0005]

14. The developer shall provide two(2) parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code. The car parking spaces and hardstand area's shall be sealed with a minimum two coat bitumen seal.

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]

15. Section 94 Contributions

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

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

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

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

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

- (a) Tweed Road Contribution Plan:

11.11 Trips @ \$1252 per Trips \$13910

(\$1252 base rate + \$0 indexation)

S94 Plan No. 4

Sector11_4

- (b) Extensions to Council Administration Offices
& Technical Support Facilities
0.8295 ET @ \$1772.82 per ET \$1470.55
(\$1759.9 base rate + \$12.919999999998 indexation)
S94 Plan No. 18

[PCC0215]

16. 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]

17. All imported fill material shall be from an approved source and free of any contaminants.

[PCC0465]

18. 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]

19. 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 13.2m AHD.
- (b) The minimum habitable floor level for the building is RL 13.5m AHD.
- (c) All building materials used below Council's design flood level must not be susceptible to water damage.

[PCC0705]

20. 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) The existing access to the landscaping yard shall be formalised and sealed with a two coat bitumen seal from the edge of Cudgera Creek Road to the property boundary in accordance with Tweed Shire Council -Driveway Access to Property.

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
- Traffic control plan

[PCC0895]

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.

[PCC1105]

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

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

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

- a) Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC1145]

23. 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]

24. Prior to the issue of a construction certificate the applicant is required to lodge an application to install/operate an onsite sewerage management system under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with an approval.

Any approval to install an on site sewage treatment and disposal system shall comply with the recommended on site sewage treatment and disposal method as detailed in the On-Site Sewage Management Design Report, HMC Environmental, November 2006 including all recommendations of that report and

any addendum to the report or to the satisfaction of Councils General Manager or his delegate.

[PCC1285]

PRIOR TO COMMENCEMENT OF WORK

25. 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]
26. 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]
27. 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]

28. 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.

[PCW0985]

DURING CONSTRUCTION

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

[DUR0005]

30. 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]

31. 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]

32. 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]

33. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

34. 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]

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

[DUR0985]

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

[DUR0995]

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

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

[DUR1005]

38. 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]

39. Landscaping of the site shall be carried out in accordance with the approved landscaping plans and species selection.

[DUR1045]

40. All hazardous and/or dangerous goods shall be handled and stored in a designated area away from stormwater drains. The designated area is to be:

- (a) Roofed;
- (b) Provided with a sealed floor; and

Bunded so as to hold 110% of the total quantity of goods stored. Bunded area(s) shall not be flood-labile and shall be provided with pump out facilities.

[DUR1635]

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

[DUR1795]

42. 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]

43. 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]

44. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary.

[DUR2205]

45. All waters that are to be discharged from the site shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l.

[DUR2435]

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

[DUR2445]

47. 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]

48. Plumbing

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

[DUR2495]

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

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

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

[DUR2555]

50. Any on-site sewage management systems are to be removed in accordance with NSW Health Advisory Note 3 - May 2006 "Destruction, Removal or Reuse of Septic Tanks, Collection Wells and Aerated Wastewater Treatment Systems (AWTS)".

[DUR2785]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

51. 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]

52. All landscaping work is to be completed in accordance with the approved plans prior to issue of an occupation certificate.

[POC0475]

53. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

54. It is a condition of an approval to install, construct or alter a sewage management facility that the facility is not used (or used as altered) until the Council has given the applicant for approval notice in writing that it is satisfied that the facility has been installed, constructed or altered in substantial accordance with the approval.

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

Reason: Mandatory condition, clause 34 of the Local Government (General) Regulation 2005.

[POC1025]

55. Prior to the occupation of any building and prior to the issue of any occupation certificate a final inspection report is to be obtained from Council to verify the satisfactory installation of all plumbing and drainage and the on-site sewage management facility.

[POC1035]

56. Prior to the occupation of any building and prior to the issue of any occupation certificate approval to operate the on-site sewage management facility under Section 68 of the Local Government Act 1993 shall be obtained from Council.

[POC1040]

57. A separate water closet shall be provided on site for use in association with commercial activities prior to the issue of an occupation certificate or commencement of use of the proposed storage facility extension.

[POCNS01]

58. The storage shed compound shall be provided with perimeter security fencing to the satisfaction of the General Manager or his delegate, and which is effective in

preventing any person from accessing the previous cattle dip site from the storage compound.

[POCNS02]

USE

59. 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]

60. Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

[USE0145]

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

[USE0165]

62. Hours of operation of the business are restricted to the following hours:

* Storage facility:

8.00am to 5.00pm - 7 days per week

All deliveries and pickups relating to the business are to occur within the approved hours

* Landscape yard

8.00am to 5.00pm - Mondays to Fridays

8.00am to 12 noon - Saturdays

No operations are to be carried out on Sundays or Public Holidays

All deliveries and pickups relating to the business are to occur within the approved hours

[USE0185]

63. 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]

64. 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]

65. Any vehicles that remain on site for periods in excess of two (2) minutes are required to switch off their engines. [USE0255]
66. No items or goods are to be stored or displayed outside the confines of the premises. [USE0445]
67. All loading/unloading to take place within the boundary of the subject property. [USE0525]
68. The premises shall be maintained in a clean and tidy manner. [USE0965]
69. All wastes in association with the storage sheds shall be stored and disposed to the satisfaction of the General Manager or his delegate. All waste materials in association with the landscaping supply operations shall be collected and disposed off-site to the satisfaction of the General Manager or his delegate. Waste materials shall not be permitted to accumulate at the subject property. [USENS01]
70. Acid sulfate soils shall not be excavated or disturbed. [USENS02]
71. Erosion and sedimentation fencing shall be erected and maintained at all times around the perimeter of all stockpiled materials to the satisfaction of the General Manager or delegate. Fencing shall also be effective in preventing wind blown material impacting adjacent residential premises. [USENS03]
72. Soils, sand or other materials from the property shall not be excavated or removed from the property as part of the proposed landscape supply business. [USENS04]

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

ABSENT. DID NOT VOTE - Cr K Skinner

- 10 [PR-CM] Development Application DA11/0356 for a Wakeboarding Coaching Clinic between Fingal and Chinderah along the Tweed River (Operating from Fingal Boat Ramp) at Lot 403 DP 755740 Main Road, Fingal Head**

75

**Cr P Youngblutt
Cr W Polglase**

PROPOSED that Council grants in-principle support for the Development Application DA11/1356 for a wakeboarding coaching clinic between Fingal and Chinderah along the Tweed River (operating from Fingal boat ramp) at Lot 403 DP 755740; Main Road,

Fingal Head, and that officers bring back a further report to Council with possible conditions of development consent.

The Motion was declared **Lost** on the casting vote of the Mayor.

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

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

ABSENT. DID NOT VOTE - Cr K Skinner

76

Cr D Holdom

Cr K Milne

RESOLVED that Development Application DA11/0356 for a wakeboarding coaching clinic between Fingal and Chinderah along the Tweed River (operating from Fingal boat ramp) at Lot 403 DP 755740; Main Road, Fingal Head 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)(i), the orderly and economic use and development of the land.

It is Council's view that the proposal has the ability to impact negatively upon adjacent land; accordingly the proposal is not identified as satisfying the Objects of the Environmental Planning & Assessment Act 1979.

2. 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)(vi), the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats.

It is Council's view that the proposal has the ability to impact upon the protection and conservation of native animals and plants; accordingly the proposal is not identified as satisfying the Objects of the Environmental Planning & Assessment Act 1979.

3. 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 aims of:

State Environmental Planning Policies:

- SEPP 14: Coastal Wetlands
- SEPP 26: Littoral Rainforests
- SEPP 64: Advertising and Signage (Clauses 10 and 27)

- SEPP 71: Coastal Protection (Clause 8(a), (d), (g), (h), (i) and (p)(i))
- NCREP: Clauses 15, 32B, 75, 76 and 81

It is Council's view that 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
 - Clause 11: Zoning
 - Clause 13: Development of uncoloured land on the zone map
 - Clause 25: Development in Zone 7(a) Environmental Protection (Wetlands and Littoral Rainforests) and on adjacent land
 - Clause 29: Development adjacent to Zone 8(a) National Parks and Nature Reserves
 - Clause 31: Development adjoining waterbodies
4. The proposal is inconsistent with management plans produced by Council and the Maritime authority that highlight the need to protect ecology and reduce erosion within the vicinity of the Tweed River.
 5. 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.

It is Council's view that use of unzoned land adjacent to environmental conservation areas of State significance for the purposes of a wakeboarding coaching clinic is considered unacceptable due to its impact upon the habitat of estuarine fauna, in particular that of migratory shorebirds.

6. 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 Council's view that it is in the broader general public interest to enforce the standards contained within the Tweed LEP 2000 specifically as it relates to the objectives of unzoned land and the 6(a) Open Space, 6(b) Recreation, 7(a) Environmental Protection (Wetlands and Littoral Rainforests), 7(d) Environmental Protection (Scenic/Escarpment), 8(a) National Parks and Nature Reserves and 2(a) Low Density Residential zones.

The Motion was declared Carried on the casting vote of the Mayor.

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

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

ABSENT. DID NOT VOTE - Cr K Skinner

A NOTICE OF RESCISSION ON ITEM 10 HAS BEEN RECEIVED FROM COUNCILLORS POLGLASE, VAN LIESHOUT AND YOUNGBLUTT

11 [PR-CM] Development Application DA11/0487 for a Two Storey Dwelling with Basement Garage, Gatehouse and Inground Concrete Swimming Pool at Lot 51 DP 1031933 No. 51 She-Oak Lane, Casuarina

77

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Development Application DA11/0487 for a two storey dwelling with basement garage, gatehouse and an inground concrete swimming pool at Lot 51 DP 1031933; No. 51 She-Oak Lane, Casuarina be approved subject to the following conditions:

GENERAL

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

[GEN0015]

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

[GEN0115]

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

[GEN0300]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

[PCC0285]

5. 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 allow for construction and operation vehicular loading.
- (j) All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

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

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

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

- a) Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
- b) Where Council is requested to issue a construction certificate for civil works associated with a subdivision consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

[PCC1145]

7. The swimming pool waterline is to be relocated to be not closer than 450mm from the northern boundary. That is, the pool is not to be constructed on the boundary.

[PCCNS01]

8. The entrance gate house is to be positioned to be at least 3 metres from the She-Oak Lane boundary. It shall also be positioned not closer than 1.5 metres from the southern boundary.

[PCCNS02]

9. Show on the plans a suitably designed 2.2 metre high privacy screen which has a width of 3 metres. This is to be positioned directly opposite the main entrance to the dwelling and is to be positioned within the property boundary. This is required to prevent direct overlooking into the adjacent property from the entrance way.

[PCCNS03]

PRIOR TO COMMENCEMENT OF WORK

10. 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]

11. 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]

12. 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]

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

[PCW0245]

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

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

[PCW0255]

15. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

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

which promotes awareness of the importance of the erosion and sediment controls provided.

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

[PCW0985]

16. All roof waters are to be disposed of through properly jointed pipes to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2.

[PCW1005]

DURING CONSTRUCTION

17. 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]

18. The 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]

19. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

20. 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]

21. 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]

22. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.

[DUR0415]

23. 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]

24. 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]
25. All landscaping is to comply with the 88B Instrument pertaining to the site.
- [DUR1055]
26. 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]
27. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.
- [DUR1945]
28. Swimming Pools (Building)
- (a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 – 2007 & AS 1926.3 -2003. (Refer Council's web site www.tweed.nsw.gov.au)
 - (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
 - (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
 - (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.
- [DUR2075]
29. Backwash from the swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.
- [DUR2085]
30. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction/demolition.
- [DUR2185]
31. 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]

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

[DUR2495]

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

[DUR2515]

34. 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]

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

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

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

[DUR2555]

36. Sewer connections within the 7(f) zone are to comply with the following:-
- (a) Two inspection shafts shall be provided to each lot. The first shall be provided immediately adjacent to the connection point provided by the developer. The second inspection shaft at 0.5 metres inside the 2(e) zone boundary on each property. Inspection shafts are to be finished at surface level with a standard bolted trap screw cap and concrete surround.
 - (b) Pipe work size for all lots under this approval are to have a 100mm diameter sewer.

[DUR2695]

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

[DUR2705]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

38. 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]

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

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

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

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

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

[POC0265]

40. 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]

41. Upon completion of the pool the builder is to submit to the Principal Certifying Authority a certificate stating that the "Water Recirculation System" has been installed in accordance with AS 1926.3-2010.

[POC0905]

USE

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

[USE0175]

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

[USE0505]

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

ABSENT. DID NOT VOTE - Cr K Skinner

- 12 **[PR-CM] Development Application DA11/0520 for Alterations and Additions to Existing Dwelling, Including House-Raising, Rooftop Viewing Area, Retaining Walls on Western and Southern Boundaries, Front Fence and Water Feature at Lot 16 DP 18026; No. 2 Prince Street, Fingal**

Cr D Holdom
Cr P Youngblutt

RESOLVED that Development Application DA11/0520 for alterations and additions to existing dwelling house, including house-raising, rooftop viewing area, retaining walls on western and southern boundaries, front fence and water feature at Lot 16 DP 18026; No. 2 Prince Street, Fingal Head 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 EP:01- EP:05 (issue K) prepared by Brian Kenny, Architect dated 13/10/11 and Plan Nos DA:01-DA:13 (issue O) prepared by Brian Kenny, Architect and dated 23/01/12, 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. Any future shading structures (temporary or otherwise) to the roof top terrace must be the subject of separate development consent and does not form part of this consent.
[GENNS01]
4. The floor of bedroom 3 shall be no higher than 1.50m above the finished ground level adjacent to this room.
[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. 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]
6. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.
[PCC0945]
7. A construction certificate application for works that involve any of the following:-
 - connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control workswill not be approved until prior separate approval to do so has been granted by Council under S68 of the Local Government Act.

- a) Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
- b) Where Council is requested to issue a construction certificate for civil works associated with a subdivision consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

[PCC1145]

8. Prior to the issue of a construction certificate, application shall be made to Tweed Shire Council under section 138 of the Roads Act 1993 for any works within the road reserve such as a new driveway crossing.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

9. 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]

10. 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]

11. 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]

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

[PCW0245]

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

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

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

[PCW0985]

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

[PCW1005]

16. 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

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

[DUR0005]

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

19. 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]

20. 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]

21. 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]

22. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.
- [DUR0415]
23. The finished floor level of the building should finish not less than 225mm above finished ground level.
- [DUR0445]
24. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan Part A1 to the satisfaction of the Principal Certifying Authority.
- Please note timber retaining walls are not permitted.
- [DUR0835]
25. All retaining walls proposed are to be constructed in accordance with the construction Certificate approval issued by the Principal Certifying Authority.
- Please note timber retaining walls are not permitted.
- [DUR0845]
26. 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]
27. 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]
28. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction/demolition.
- [DUR2185]
29. 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]
30. Plumbing
-

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

[DUR2495]

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

[DUR2515]

32. 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]

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

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

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

[DUR2555]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

34. 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]

35. Prior to the issue of an occupation certificate,

- (a) Certification of termite protection methods performed by the person carrying out the works is to be submitted to the PCA; and
- (b) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
 - (i) the method of protection; and
 - (ii) the date of installation of the system; and
 - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
 - (iv) the need to maintain and inspect the system on a regular basis.

[POC0235]

36. 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]

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

[POC1045]

38. Prior to the issue of an occupation certificate, including an interim occupation certificate, a privacy screen which will effectively restrict direct visual contact with adjoining allotments shall be provided to the western window of the Lounge Room.

[POCNS01]

USE

39. The southern two storey addition is not to be used or adapted for separate residential habitation or occupation.

[USE0465]

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

ABSENT. DID NOT VOTE - Cr K Skinner

- 13 [PR-CM] Development Application DA11/0476 for the Demolition of Existing Structures, Construction of a McDonalds Restaurant and Drive-Thru, IGA Supermarket, 2 x Speciality Stores, Carparking and Associated Signage at Lot 1 DP 183770, Lots 1-4 DP 4279, Lot 1 DP 437562, Lot 1 DP 443232, Lot 17 DP 965658 & Lot 18 DP 962878 No. 230 Tweed Valley Way, South Murwillumbah**

79

**Cr P Youngblutt
Cr W Polglase**

PROPOSED that Development Application DA11/0476 for the demolition of existing structures, construction of a McDonalds restaurant and drive-thru, IGA supermarket, 2 x speciality stores, carparking and associated signage at Lot 1 DP 183770, Lots 1-4 DP 4279, Lot 1 DP 437562, Lot 1 DP 443232, Lot 17 DP 965658 & Lot 18 DP 962878 No. 230 Tweed Valley Way, South Murwillumbah 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 six (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".

It should be noted that the consent will lapse if the matters set out in Schedule A are not satisfied.

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 plans for the proposed development are to be amended and submitted to Council's General Manager or his delegate for approval, to incorporate the following:
 - (a) Modifications to both buildings to incorporate the following:
 - Both buildings address building and roof form to be more reflective of the local context and passive design measures with a series of pitching or skillion roof planes and eave over hangs;
 - Both buildings incorporate a mix of materials more closely associated with the north coast vernacular including but not limited masonry, corrugated iron, cfc sheeting weatherboard/chamferboard with hardwood timber detailing where possible;
 - McDonalds Restaurant incorporate a more generous covered outdoor eating area taking advantage of the view north over the river;
 - IGA incorporate a more main street 'shopfront' dimensioning and articulation to the northern elevation. As a guide shopfront dimensions are approximately 5.0m with the awning height approximately 3.2m high. The northern elevation should be articulated and detailed to generally achieve a similar scale by way of structural bays, or material changes (see material comments above).
 - Screened loading bays with offset openable timber frames
 - (b) The 10.0m high pylon signs (McDonalds and IGA) are to be removed from the development proposal to avoid the juxtaposition of the neon sign with the iconic profile view of Mt. Warning as they would significantly compromise an important view field and therefore entry experience and visual character. The proposed buildings are significantly branded and propose a number of other signs of various sizes and illumination to adequately identify the location of the proposed businesses. Signage along this street edge is to be limited to a maximum of 5.0m. The width of an amended sign is to be proportional to its height. For example the reduction in only the pole height from 10m to 5.0m would not be acceptable'.
 - (c) The proposed signage is to be revised in order to comply with the provisions of DCP A4 in terms of the number of signs per premises and the maximum area of signage, noting that lifestyle images / decals are considered to be a form of advertisement and must be included in any calculations for signage.
 - (d) The Site Plan is to be revised in order to provide additional landscaping along the frontage of the site. Specifically, the car parking layout is to be amended to provide for a wider landscaping strip along the site's frontage between IGA's car spaces 17 to 20 and between McDonald's car spaces 15 to 27 (in reference to Drawing SP2 (Issue Q)), to allow for more substantial landscaping including street trees rather than predominantly low level plantings.

- (e) The Landscape Plan is to be revised to incorporate street trees capable of growing to a mature height of no less than 5.0m with the species list selected in consultation with Council's Landscape Architect. These street trees would then provide definition to street edge and improve the entry experience into Murwillumbah. All reference to decorative gravel is to be removed from the landscape plans.
 - (f) Details are to be provided indicating improved pedestrian circulation legibility by extending pathways to all car parking areas, and more clearly delineated pedestrian priority at the seven points of conflict by raised threshold, change in surface material, colour or other suitable measure
 - (g) Further detail is to be provided with regard to the proposed electricity transformer, including a cross section through the transformer to clearly indicate the proposed height of the transformer and the proposed screen methods.
2. A Contaminated Land Investigation Report is to be prepared, by a suitably qualified and experienced person, and submitted and approved to by Council's General Manager or his delegate. The Report shall be prepared in accordance with the Contaminated Sites: Guidelines for Consultants Reporting on Contaminated Sites dated 1997 and other relevant documents made or approved by the NSW Environment Protection Authority in accordance with the Contaminated Land Management Act 1997.

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 approved plans under Schedule A of this consent, except where varied by the conditions of this consent.
[GEN0005]
2. Submission of a further Development Application(s) for the first use of the specialty shops adjacent to the IGA Supermarket, such to be approved by Council prior to their use or occupation.
[GEN0055]
3. All signage is to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts.
[GEN0075]
4. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0115]
5. 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]

6. 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]

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

[GEN0265]

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

[GEN0300]]

9. The proposed development is to be staged in two stages, being the McDonald's stage and the IGA / Shops stage. The access and shared carparking easements must be completed together with the first stage of the development under construction.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. Pursuant to Section 80A(1)(B) of the Environmental Planning and Assessment Act, 1979 (as amended) and Clause 97 of the Environmental Planning and Assessment Regulations, 2000 development consent No. DA10/0504 dated 17 September 2010 (relating to an advertising structure in the north western portion of the site) shall be surrendered by lodgement of the prescribed information suitably executed, PRIOR to the issue of a Construction Certificate/Subdivision Certificate. The advertising structure approved under DA10/0504 shall be removed from the site prior to the commencement of works.

[PCC0005]

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

[PCC0055]

12. The developer shall provide 82 parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

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

[PCC0065]

13. Section 94 Contributions

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

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

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

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

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

(a) Tweed Road Contribution Plan:

440.598 Trips @ \$1807 per Trips \$796,161

(\$1807 base rate + \$0 indexation)

S94 Plan No. 4

Sector10_4

[PCC0215]

14. Section 94 Contributions

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

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

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

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

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5 prior to the issue of a construction certificate. The contribution shall be based on the following formula:-

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

where:

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

and:

- Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes
- Dist. average haulage distance of product on Shire roads
(trip one way)
- \$Unit the unit cost attributed to maintaining a road as set out in Section 7.2 (currently 5.4c per tonne per kilometre)
- Admin. Administration component - 5% - see Section 6.6

[PCC0225/PSC0185]

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

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

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

Water DSP2: 12.753 ET @ \$11571 per ET \$147,565.00

Sewer Murwillumbah: 20.7824 ET @ \$5560 per ET \$115,550.10

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

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

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

[PCC0265]

16. 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]

17. 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]

18. 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]

19. 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]

20. 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 5.8m AHD.
- (b) All building materials used below Council's design flood level must not be susceptible to water damage.
- (c) 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.

[PCC0705]

21. 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, with the exception of 15m long acoustic fence as identified by the acoustic report.

[PCC0725]

22. Details of the kitchen exhaust system are to be provided and approved prior to release of the Construction Certificate if required. Such details are to include the location of discharge to the air, capture velocity, size and hood and angle of filters. The system shall comply with AS1668.2 - Ventilation Requirements.

[PCC0735]

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

- (a) Construction of two (2) new vehicular footpath crossings. The eastern (ingress) driveway shall be shall be 7.0m wide at the property boundary,

and the western (egress) driveway shall be 7.5m wide at the property boundary.

- (b) Removal of all redundant existing vehicle entries and replacement with kerb and gutter to match existing, as well as appropriate footpath restoration.
- (c) Construction of full width concrete path paving for the full extent of the proposed bus set-down area. The applicant is advised that separate signage for the designation of a bus zone will require separate application to Council's Local Traffic Committee, and that this should be submitted in conjunction with the Sec.138 application. At this time Council may consider the installation of 'No Parking' signage for the remainder of the site frontage is warranted, in conjunction with the bus zone signage.

The above-mentioned Sec.138 application is required to also include details of the proposed bus shelter that will be erected within the site, to ensure it is compliant with Council's standards. The bus shelter will not however gain approval for construction via the Sec.138 application.

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

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

[PCC0895]

24. 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]

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

- connection of a private stormwater drain to a public stormwater drain

- installation of stormwater quality control devices
- erosion and sediment control works

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

- a) Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
- b) Where Council is requested to issue a construction certificate for civil works associated with a subdivision consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

[PCC1145]

26. 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]

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. In accordance with Section 68 of the Local Government Act, 1993, any premises proposing to discharge into Councils sewerage system waste water other than domestic sewage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by the General Manager or his delegate PRIOR to the issuing of a Construction Certificate to discharge to Councils sewerage system.

[PCC1255]

29. 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]

30. 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]

31. A construction management plan and construction noise management plan shall be submitted to the satisfaction of the General Manager or his delegate prior to issue of a construction certificate. The construction management plan shall include details on the possible staging of the development, with particular regard to access arrangements across the site. All work shall comply with the approved plans.
32. Prior to the construction certificate being issued plans drawn to a scale of 1:50 detailing the following with regards to all food related areas shall be provided to Council for assessment and approval, accompanied by a completed Application for Approval of Food Premise Fitout and the adopted fee in Council's Fees and Charges. Evidence of the plans being approved shall be provided prior to release of the construction certificate:
 - Floor plan
 - Layout of kitchens showing all equipment
 - All internal finish details including floors, wall, ceiling and lighting
 - Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required

[PCCNS01]

33. An existing overhead power line traverses the western portion of the site, and the applicant is required to make appropriate enquiries with Country Energy for the removal or relocation of this line. Documentary evidence of Country Energy advice will be required prior to issue of any construction certificate.

[PCCNS02]

34. A separate Section 68 application will be required for the extension of existing sewer main infrastructure, to accord with the future subdivision proposal for this site. Construction of sewer infrastructure at this time (in lieu of in the future) will avoid significant disturbance of the proposed landscaping works and internal access and parking areas.

[PCCNS03]

35. The applicant is invited to submit an application for two (2) water connections for the site, to accord with the future subdivision proposal over the site.

[PCCNS04]

36. "No Entry" signage is to be erected at the egress driveway that is clearly visible to eastbound traffic on Tweed Valley Way, to avoid conflict with eastbound traffic that could try to enter the site via the egress driveway.

[PCCNS05]

37. Prior to the Construction Certificate being issued, a Site Management Plan for the ongoing use and management of the entire site shall be prepared and submitted to the satisfaction of Council's General Manager or delegate. The Plan shall include but is not limited to the management of mechanical plant and associated equipment, management of the Playland area, proposed site security including management of patrons and antisocial behaviour, monitoring and management of litter, trolley management, coordination of refuse collection vehicles and delivery vehicles to avoid potential traffic conflict and general site management.

The approved Site Management Plan shall be kept onsite and implemented upon commencement of operations.

[PCCNS06]

38. Prior to the issue of a Construction Certificate a Heritage Impact Statement is to be submitted and approved by Council's General Manager or his delegate, in relation to the existing building along the eastern boundary of the site. The Statement is to be prepared by a suitably qualified heritage consultant documenting the building's heritage value and providing details of its proposed relocation, rehabilitation, funding and ongoing management.

[PCCNS07]

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

- Demolition

The volume and type of waste generated during demolition

The methods of storage of material on site. A site plan should be included.

How recyclable materials will be separated, managed, and where the materials will be sent for recycling

The location and methods of disposal of all residual waste

The licensed transporter of the waste

- Construction

The type of waste generated during construction

The method and location of waste storage on site

How any recyclable materials will be managed

The location of the disposal facility for residual waste

During the demolition and construction phases it is the responsibility of the site manager to ensure that the above management measures are inspected and maintained on a daily basis.

[PCCNS08]

40. Prior to the issue of a Construction Certificate, and where required by the approved Contaminated Land Investigation Report, a Remediation Action Plan (RAP) shall be submitted and approved by Council's General Manager or his delegate. The report shall demonstrate that the site is suitable, or made suitable following remedial works, for the proposed land use. Conditions and recommendations imposed by the RAP shall form part of this consent. Where the conditions and recommendations are not consistent with this consent, a section 96 application pursuant to the Environment Planning and Assessment Act 1979 will be required to ensure the conditions form part of the consent conditions.

PRIOR TO COMMENCEMENT OF WORK

41. 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]

42. 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]

43. 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]

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

[PCW0245]

45. 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]

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

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

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

[PCW0985]

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

[PCW1005]

50. 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]

51. 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]

DURING CONSTRUCTION

52. 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]

53. 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]

54. 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]

55. 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]

56. 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]

57. 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]

58. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.

[DUR0415]

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

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

[DUR0645]

60. 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]

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

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

[DUR0765]

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. 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]

65. 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]

66. 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]

67. 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]

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. A survey certificate signed by a registered surveyor is to be submitted to the Principal Certifying Authority at floor stage to certify that the floor level of the buildings to be at a level of not less than RL 5.8m AHD.

[DUR1445]

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

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

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

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

[DUR1495]

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

[DUR1505]

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

[DUR1515]

73. Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of the General Manager or his delegate.
- [DUR1545]
74. During the course of the construction and fitout of the kitchen/food premises periodic inspections must be arranged with Councils Environmental Health officer to ensure compliance with all health related conditions of approval and respective legislation.
- [DUR1575]
75. 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]
76. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.
- [DUR1905]
77. During construction, a "satisfactory inspection report" is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.
- [DUR1925]
78. 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]
79. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction/demolition.
- [DUR2185]
80. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".
- [DUR2195]
81. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary.
- [DUR2205]
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. 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]

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

[DUR2435]

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

[DUR2445]

86. 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]

87. Plumbing

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

[DUR2495]

88. 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]

89. 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]

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

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

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

[DUR2555]

91. Individual air conditioning, refrigeration and exhaust fan units for the McDonalds restaurant are to be located behind appropriately constructed roof parapets and/or acoustic screens on the roof level to provide shielding to residential lands uses to the east of the property.

92. A 2.4 metre high acoustic barrier is to be constructed on the northern portion of the eastern boundary of the site. The acoustic barrier is to be 15 m in length, from the northern extent of the eastern boundary. The acoustic barrier is to be gap-free and constructed of materials achieving a minimum surface density of 12.5 kg/m². The acoustic barrier is to be constructed from overlapped timber palings, ply, fibre cement, concrete, steel, glass or any other suitable material achieving the required standard. The barrier shall be maintained to a suitable standard at all times

[DURNS01]

93. All works shall be undertaken in accordance with the approved Contaminated Land Investigation report and the approved Remediation Action Plan.

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

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

The bond shall be based on 5% of the value of the civil works approved under Section 138 of the Roads Act and Section 68 of the Local Government Act (in particular the sewer infrastructure works) as set out in Councils Fees and Charges current at the time of payment which will be held by Council for a period of 6 months from the date on which the Occupation Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[POC0165]

96. 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]

97. 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]

98. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval.

[POC0615]

99. The proprietor of the food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations by completing the "Notify a Food Business" form under the NAFSIS Heading on the following website www.foodnotify.nsw.gov.au or alternatively by contacting the NSW Food Authority on 1300650124.

[POC0625]

100. The premises is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request.

[POC0635]

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

[POC0745]

102. Work as executed plans are to be provided to Council in accordance with Councils Development Design Specification, D13 and a CCTV inspection of the stormwater pipes and sewerage system to be dedicated to Council as public infrastructure including joints and junctions to demonstrate that the standard of the system is acceptable to Council.

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

- a) The plans accurately reflect the work as executed.
- b) All stormwater lines, sewer lines, services and structures are wholly contained within the relevant easements or boundaries.

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 plans.

[POC0765]

103. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate.

[POC0855]

104. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council. Written approval from

Councils General Manager or his delegate must be issued prior to the issue of an Occupation Certificate.

[POC0865]

105. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the “satisfactory inspection report” issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

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

[POC1045]

107. Prior to the issue of an occupation certificate for the IGA Supermarket, a Waste Management Plan for the operational phase of the supermarket is to be submitted and approved by Council’s General Manager or his delegate.

[POCNS01]

108. Prior to the issue of an occupation certificate for the McDonald’s restaurant and the IGA Supermarket, written acceptance from the waste contractor (with regard to the restricted collection time) must be obtained and submitted to Council. Refuse collection activities are limited to the period of 7.00am to 7.00pm only Monday to Saturday and 8.00am to 7.00pm Sundays and Public holidays.

[POCNS02]

USE

109. 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]

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

[USE0175]

111. Hours of operation for the McDonald's restaurant are 24 hours, 7 days a week.

Hours of operation for the IGA Supermarket are restricted to the following hours:

- * 5.00am to 10.00pm – 7 days a week

[USE0185]

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

[USE0225]

113. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by

a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer.

[USE0245]

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

[USE0835]

115. All mechanical ventilation shall comply with AS1668.2 Ventilation Requirements.

[USE0845]

116. The applicant and occupier of the premises is alerted to the requirements of the Smoke-Free Environment Act 2000 and the Smoke Free Environment Regulation 2007 and the guidelines in the Regulation for determining what is an enclosed public place. Enquires may be directed to the NSW Department of Health. The legislation may be viewed on the following website:

<http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/O>

[USE1075]

117. Individual air conditioning, refrigeration and exhaust fan units for the McDonalds restaurant are to be located behind appropriately constructed roof parapets and/or acoustic screens on the roof level to provide shielding to residential lands uses to the east of the property.

118. A 2.4 metre high acoustic barrier is to be constructed on the northern portion of the eastern boundary of the site. The acoustic barrier is to be 15 m in length, from the northern extent of the eastern boundary. The acoustic barrier is to be gap-free and constructed of materials achieving a minimum surface density of 12.5 kg/m². The acoustic barrier is to be constructed from overlapped timber palings, ply, fibre cement, concrete, steel, glass or any other suitable material achieving the required standard. The barrier shall be maintained to a suitable standard at all times.

119. Delivery, service vehicle and refuse collection activities are to be limited to the period 7:00 am to 7:00 pm only Monday to Saturday and 8am to 7pm Sunday and Public Holidays.

120. The commercial buildings that currently exist at 228 Tweed Valley Way, Murwillumbah, were considered by the acoustic consultant for the current development application to act as acoustic barriers and provide noise attenuation to the nearest affected residential dwelling. Should alterations to buildings at 228 Tweed Valley Way reduce noise attenuation, and noise pollution results, the owner of the property to which the current development application relates is responsible for addressing the matter within their property and ensuring that noise pollution ceases.

[USENS01]

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

[USE0735]

122. Delivery / service vehicles accessing the site are limited to the following:

- 14m pallet truck for the McDonald's operation
- 12.5m Heavy Rigid Vehicle (HRV) for the IGA Supermarket

[USENS02]

80

AMENDMENT 1

**Cr J van Lieshout
Cr K Milne**

PROPOSED that this item be deferred for consultation with both business and community sectors to be determined by Council during a workshop session.

Amendment 1 was **Lost**

FOR VOTE - Cr K Milne, Cr J van Lieshout

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

ABSENT. DID NOT VOTE - Cr K Skinner

81

AMENDMENT 2

**Cr D Holdom
Cr K Milne**

RESOLVED that Development Application DA11/0476 for the demolition of existing structures, construction of a McDonalds restaurant and drive-thru, IGA supermarket, 2 x speciality stores, carparking and associated signage at Lot 1 DP 183770, Lots 1-4 DP 4279, Lot 1 DP 437562, Lot 1 DP 443232, Lot 17 DP 965658 & Lot 18 DP 962878 No. 230 Tweed Valley Way, South Murwillumbah 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 six (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".

It should be noted that the consent will lapse if the matters set out in Schedule A are not satisfied.

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 plans for the proposed development are to be amended and submitted to Council's General Manager or his delegate for approval, to incorporate the following:
 - (a) Modifications to both buildings to incorporate the following:
 - Both buildings address building and roof form to be more reflective of the local context and passive design measures with a series of pitching or skillion roof planes and eave over hangs;
 - Both buildings incorporate a mix of materials more closely associated with the north coast vernacular including but not limited masonry, corrugated iron, cfc sheeting weatherboard/chamferboard with hardwood timber detailing where possible;
 - McDonalds Restaurant incorporate a more generous covered outdoor eating area taking advantage of the view north over the river;
 - IGA incorporate a more main street 'shopfront' dimensioning and articulation to the northern elevation. As a guide shopfront dimensions are approximately 5.0m with the awning height approximately 3.2m high. The northern elevation should be articulated and detailed to generally achieve a similar scale by way of structural bays, or material changes (see material comments above).
 - Screened loading bays with offset openable timber frames.
 - A further assessment of opportunities to provide improved energy and water efficient design, materials and fixtures for both buildings, including the potential for rain water capture, storage and re-use.
 - (b) The 10.0m high pylon signs (McDonalds and IGA) are to be removed from the development proposal to avoid the juxtaposition of the neon sign with the iconic profile view of Mt. Warning as they would significantly compromise an important view field and therefore entry experience and visual character. The proposed buildings are significantly branded and propose a number of other signs of various sizes and illumination to adequately identify the location of the proposed businesses. Signage along this street edge is to be limited to a maximum of 5.0m. The width of an amended sign is to be proportional to its height. For example the reduction in only the pole height from 10m to 5.0m would not be acceptable'.
 - (c) The proposed signage is to be revised in order to comply with the provisions of DCP A4 in terms of the number of signs per premises and the maximum area of signage, noting that lifestyle images / decals are considered to be a form of advertisement and must be included in any calculations for signage.
 - (d) The Site Plan is to be revised in order to provide additional landscaping along the frontage of the site. Specifically, the car parking layout is to be amended to provide for a wider landscaping strip along the site's frontage between IGA's car spaces 17 to 20 and between McDonald's car spaces 15 to 27 (in reference to Drawing SP2 (Issue Q)), to allow for more substantial

landscaping including street trees rather than predominantly low level plantings.

- (e) The Landscape Plan is to be revised to incorporate street trees capable of growing to a mature height of no less than 5.0m with the species list selected in consultation with Council's Landscape Architect. These street trees would then provide definition to street edge and improve the entry experience into Murwillumbah. All reference to decorative gravel is to be removed from the landscape plans.
 - (f) Details are to be provided indicating improved pedestrian circulation legibility by extending pathways to all car parking areas, and more clearly delineated pedestrian priority at the seven points of conflict by raised threshold, change in surface material, colour or other suitable measure
 - (g) Further detail is to be provided with regard to the proposed electricity transformer, including a cross section through the transformer to clearly indicate the proposed height of the transformer and the proposed screen methods.
2. A Contaminated Land Investigation Report is to be prepared, by a suitably qualified and experienced person, and submitted and approved to by Council's General Manager or his delegate. The Report shall be prepared in accordance with the Contaminated Sites: Guidelines for Consultants Reporting on Contaminated Sites dated 1997 and other relevant documents made or approved by the NSW Environment Protection Authority in accordance with the Contaminated Land Management Act 1997.

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 approved plans under Schedule A of this consent, except where varied by the conditions of this consent.
[GEN0005]
2. Submission of a further Development Application(s) for the first use of the specialty shops adjacent to the IGA Supermarket, such to be approved by Council prior to their use or occupation.
[GEN0055]
3. All signage is to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts.
[GEN0075]
4. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0115]
5. 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]

6. 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]

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

[GEN0265]

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

[GEN0300]

9. The proposed development is to be staged in two stages, being the McDonald's stage and the IGA / Shops stage. The access and shared carparking easements must be completed together with the first stage of the development under construction.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. Pursuant to Section 80A(1)(B) of the Environmental Planning and Assessment Act, 1979 (as amended) and Clause 97 of the Environmental Planning and Assessment Regulations, 2000 development consent No. DA10/0504 dated 17 September 2010 (relating to an advertising structure in the north western portion of the site) shall be surrendered by lodgement of the prescribed information suitably executed, PRIOR to the issue of a Construction Certificate/Subdivision Certificate. The advertising structure approved under DA10/0504 shall be removed from the site prior to the commencement of works.

[PCC0005]

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

[PCC0055]

12. The developer shall provide 82 parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

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

[PCC0065]

13. Section 94 Contributions

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

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

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

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

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

(a) Tweed Road Contribution Plan:

440.598 Trips @ \$1807 per Trips \$796,161

(\$1807 base rate + \$0 indexation)

S94 Plan No. 4

Sector10_4

[PCC0215]

14. Section 94 Contributions

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

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

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

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

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5 prior to the issue of a construction certificate. The contribution shall be based on the following formula:-

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

where:

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

and:

- Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes
- Dist. average haulage distance of product on Shire roads
(trip one way)
- \$Unit the unit cost attributed to maintaining a road as set out in Section 7.2 (currently 5.4c per tonne per kilometre)
- Admin. Administration component - 5% - see Section 6.6

[PCC0225/PSC0185]

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

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

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

Water DSP2:	12.753 ET @ \$11571 per ET	\$147,565.00
Sewer Murwillumbah:	20.7824 ET @ \$5560 per ET	\$115,550.10

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

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

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

[PCC0265]

16. 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]

17. 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]

18. 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]

19. 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]

20. 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 5.8m AHD.
- (b) All building materials used below Council's design flood level must not be susceptible to water damage.
- (c) 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.

[PCC0705]

21. 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, with the exception of 15m long acoustic fence as identified by the acoustic report.

[PCC0725]

22. Details of the kitchen exhaust system are to be provided and approved prior to release of the Construction Certificate if required. Such details are to include the location of discharge to the air, capture velocity, size and hood and angle of filters. The system shall comply with AS1668.2 - Ventilation Requirements.

[PCC0735]

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

- (a) Construction of two (2) new vehicular footpath crossings. The eastern (ingress) driveway shall be shall be 7.0m wide at the property boundary,

and the western (egress) driveway shall be 7.5m wide at the property boundary.

- (b) Removal of all redundant existing vehicle entries and replacement with kerb and gutter to match existing, as well as appropriate footpath restoration.
- (c) Construction of full width concrete path paving for the full extent of the proposed bus set-down area. The applicant is advised that separate signage for the designation of a bus zone will require separate application to Council's Local Traffic Committee, and that this should be submitted in conjunction with the Sec.138 application. At this time Council may consider the installation of 'No Parking' signage for the remainder of the site frontage is warranted, in conjunction with the bus zone signage.

The above-mentioned Sec.138 application is required to also include details of the proposed bus shelter that will be erected within the site, to ensure it is compliant with Council's standards. The bus shelter will not however gain approval for construction via the Sec.138 application.

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

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

[PCC0895]

24. 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]

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

- connection of a private stormwater drain to a public stormwater drain

- installation of stormwater quality control devices
- erosion and sediment control works

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

- a) Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
- b) Where Council is requested to issue a construction certificate for civil works associated with a subdivision consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

[PCC1145]

26. 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]

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. In accordance with Section 68 of the Local Government Act, 1993, any premises proposing to discharge into Councils sewerage system waste water other than domestic sewage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by the General Manager or his delegate PRIOR to the issuing of a Construction Certificate to discharge to Councils sewerage system.

[PCC1255]

29. 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]

30. 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]

31. A construction management plan and construction noise management plan shall be submitted to the satisfaction of the General Manager or his delegate prior to issue of a construction certificate. The construction management plan shall include details on the possible staging of the development, with particular regard to access arrangements across the site. All work shall comply with the approved plans.
32. Prior to the construction certificate being issued plans drawn to a scale of 1:50 detailing the following with regards to all food related areas shall be provided to Council for assessment and approval, accompanied by a completed Application for Approval of Food Premise Fitout and the adopted fee in Council's Fees and Charges. Evidence of the plans being approved shall be provided prior to release of the construction certificate:
 - Floor plan
 - Layout of kitchens showing all equipment
 - All internal finish details including floors, wall, ceiling and lighting
 - Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required

[PCCNS01]

33. An existing overhead power line traverses the western portion of the site, and the applicant is required to make appropriate enquiries with Country Energy for the removal or relocation of this line. Documentary evidence of Country Energy advice will be required prior to issue of any construction certificate.

[PCCNS02]

34. A separate Section 68 application will be required for the extension of existing sewer main infrastructure, to accord with the future subdivision proposal for this site. Construction of sewer infrastructure at this time (in lieu of in the future) will avoid significant disturbance of the proposed landscaping works and internal access and parking areas.

[PCCNS03]

35. The applicant is invited to submit an application for two (2) water connections for the site, to accord with the future subdivision proposal over the site.

[PCCNS04]

36. "No Entry" signage is to be erected at the egress driveway that is clearly visible to eastbound traffic on Tweed Valley Way, to avoid conflict with eastbound traffic that could try to enter the site via the egress driveway.

[PCCNS05]

37. Prior to the Construction Certificate being issued, a Site Management Plan for the ongoing use and management of the entire site shall be prepared and submitted to the satisfaction of Council's General Manager or delegate. The Plan shall include but is not limited to the management of mechanical plant and associated equipment, management of the Playland area, proposed site security including management of patrons and antisocial behaviour, monitoring and management of litter, trolley management, coordination of refuse collection vehicles and delivery vehicles to avoid potential traffic conflict and general site management.

The approved Site Management Plan shall be kept onsite and implemented upon commencement of operations.

[PCCNS06]

38. Prior to the issue of a Construction Certificate a Heritage Impact Statement is to be submitted and approved by Council's General Manager or his delegate, in relation to the existing building along the eastern boundary of the site. The Statement is to be prepared by a suitably qualified heritage consultant documenting the building's heritage value and providing details of its proposed relocation, rehabilitation, funding and ongoing management.

[PCCNS07]

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

- Demolition

- The volume and type of waste generated during demolition

- The methods of storage of material on site. A site plan should be included.

- How recyclable materials will be separated, managed, and where the materials will be sent for recycling

- The location and methods of disposal of all residual waste

- The licensed transporter of the waste

- Construction

- The type of waste generated during construction

- The method and location of waste storage on site

- How any recyclable materials will be managed

- The location of the disposal facility for residual waste

During the demolition and construction phases it is the responsibility of the site manager to ensure that the above management measures are inspected and maintained on a daily basis.

[PCCNS08]

40. Prior to the issue of a Construction Certificate, and where required by the approved Contaminated Land Investigation Report, a Remediation Action Plan (RAP) shall be submitted and approved by Council's General Manager or his delegate. The report shall demonstrate that the site is suitable, or made suitable following remedial works, for the proposed land use. Conditions and recommendations imposed by the RAP shall form part of this consent. Where the conditions and recommendations are not consistent with this consent, a section 96 application pursuant to the Environment Planning and Assessment Act 1979 will be required to ensure the conditions form part of the consent conditions.

PRIOR TO COMMENCEMENT OF WORK

41. 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]

42. 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]

43. 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]

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

[PCW0245]

45. 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]

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

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

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

[PCW0985]

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

[PCW1005]

50. 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]

51. 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]

DURING CONSTRUCTION

52. 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]

53. 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]

54. 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]

55. 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]

56. 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]

57. 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]

58. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.

[DUR0415]

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

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

[DUR0645]

60. 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]

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

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

[DUR0765]

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. 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]

65. 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]

66. 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]

67. 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]

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. A survey certificate signed by a registered surveyor is to be submitted to the Principal Certifying Authority at floor stage to certify that the floor level of the buildings to be at a level of not less than RL 5.8m AHD.

[DUR1445]

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

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

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

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

[DUR1495]

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

[DUR1505]

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

[DUR1515]

73. Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of the General Manager or his delegate.
- [DUR1545]
74. During the course of the construction and fitout of the kitchen/food premises periodic inspections must be arranged with Councils Environmental Health officer to ensure compliance with all health related conditions of approval and respective legislation.
- [DUR1575]
75. 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]
76. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.
- [DUR1905]
77. During construction, a "satisfactory inspection report" is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.
- [DUR1925]
78. 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]
79. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction/demolition.
- [DUR2185]
80. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".
- [DUR2195]
81. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary.
- [DUR2205]
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. 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]

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

[DUR2435]

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

[DUR2445]

86. 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]

87. Plumbing

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

[DUR2495]

88. 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]

89. 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]

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

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

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

[DUR2555]

91. Individual air conditioning, refrigeration and exhaust fan units for the McDonalds restaurant are to be located behind appropriately constructed roof parapets and/or acoustic screens on the roof level to provide shielding to residential lands uses to the east of the property.

92. A 2.4 metre high acoustic barrier is to be constructed on the northern portion of the eastern boundary of the site. The acoustic barrier is to be 15 m in length, from the northern extent of the eastern boundary. The acoustic barrier is to be gap-free and constructed of materials achieving a minimum surface density of 12.5 kg/m². The acoustic barrier is to be constructed from overlapped timber palings, ply, fibre cement, concrete, steel, glass or any other suitable material achieving the required standard. The barrier shall be maintained to a suitable standard at all times

[DURNS01]

93. All works shall be undertaken in accordance with the approved Contaminated Land Investigation report and the approved Remediation Action Plan.

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

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

The bond shall be based on 5% of the value of the civil works approved under Section 138 of the Roads Act and Section 68 of the Local Government Act (in particular the sewer infrastructure works) as set out in Councils Fees and Charges current at the time of payment which will be held by Council for a period of 6 months from the date on which the Occupation Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[POC0165]

96. 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]

97. 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]

98. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval.

[POC0615]

99. The proprietor of the food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations by completing the "Notify a Food Business" form under the NAFSIS Heading on the following website www.foodnotify.nsw.gov.au or alternatively by contacting the NSW Food Authority on 1300650124.

[POC0625]

100. The premises is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request.

[POC0635]

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

[POC0745]

102. Work as executed plans are to be provided to Council in accordance with Councils Development Design Specification, D13 and a CCTV inspection of the stormwater pipes and sewerage system to be dedicated to Council as public infrastructure including joints and junctions to demonstrate that the standard of the system is acceptable to Council.

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

- a) The plans accurately reflect the work as executed.
- b) All stormwater lines, sewer lines, services and structures are wholly contained within the relevant easements or boundaries.

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 plans.

[POC0765]

103. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate.

[POC0855]

104. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council. Written approval from Council's General Manager or his delegate must be issued prior to the issue of an Occupation Certificate.

[POC0865]

105. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

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

[POC1045]

107. Prior to the issue of an occupation certificate for the IGA Supermarket, a Waste Management Plan for the operational phase of the supermarket is to be submitted and approved by Council's General Manager or his delegate.

[POCNS01]

108. Prior to the issue of an occupation certificate for the McDonald's restaurant and the IGA Supermarket, written acceptance from the waste contractor (with regard to the restricted collection time) must be obtained and submitted to Council. Refuse collection activities are limited to the period of 7.00am to 7.00pm only Monday to Saturday and 8.00am to 7.00pm Sundays and Public holidays.

[POCNS02]

USE

109. 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]

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

[USE0175]

111. Hours of operation for the McDonald's restaurant are 24 hours, 7 days a week.

Hours of operation for the IGA Supermarket are restricted to the following hours:

* 5.00am to 10.00pm – 7 days a week

[USE0185]

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

[USE0225]

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

[USE0245]

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

[USE0835]

115. All mechanical ventilation shall comply with AS1668.2 Ventilation Requirements.

[USE0845]

116. The applicant and occupier of the premises is alerted to the requirements of the Smoke-Free Environment Act 2000 and the Smoke Free Environment Regulation 2007 and the guidelines in the Regulation for determining what is an enclosed public place. Enquires may be directed to the NSW Department of Health. The legislation may be viewed on the following website:

<http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/O>

[USE1075]

117. Individual air conditioning, refrigeration and exhaust fan units for the McDonalds restaurant are to be located behind appropriately constructed roof parapets and/or acoustic screens on the roof level to provide shielding to residential lands uses to the east of the property.

118. A 2.4 metre high acoustic barrier is to be constructed on the northern portion of the eastern boundary of the site. The acoustic barrier is to be 15 m in length, from the northern extent of the eastern boundary. The acoustic barrier is to be gap-free and constructed of materials achieving a minimum surface density of 12.5 kg/m². The acoustic barrier is to be constructed from overlapped timber palings, ply, fibre cement, concrete, steel, glass or any other suitable material achieving the required standard. The barrier shall be maintained to a suitable standard at all times.

119. Delivery, service vehicle and refuse collection activities are to be limited to the period 7:00 am to 7:00 pm only Monday to Saturday and 8am to 7pm Sunday and Public Holidays.

120. The commercial buildings that currently exist at 228 Tweed Valley Way, Murwillumbah, were considered by the acoustic consultant for the current development application to act as acoustic barriers and provide noise attenuation to the nearest affected residential dwelling. Should alterations to buildings at 228 Tweed Valley Way reduce noise attenuation, and noise pollution results, the owner of the property to which the current development application relates is responsible for addressing the matter within their property and ensuring that noise pollution ceases.

[USENS01]

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

[USE0735]

122. Delivery / service vehicles accessing the site are limited to the following:

- 14m pallet truck for the McDonald's operation
- 12.5m Heavy Rigid Vehicle (HRV) for the IGA Supermarket

[USENS02]

Amendment 2 was **Carried**

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

AGAINST VOTE - Cr J van Lieshout

ABSENT. DID NOT VOTE - Cr K Skinner

Amendment 2 on becoming the Motion was **Carried** - (Minute No 80 refers)

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

AGAINST VOTE - Cr K Milne, Cr J van Lieshout

ABSENT. DID NOT VOTE - Cr K Skinner

ADJOURNMENT OF MEETING

Adjournment for lunch at 12.27pm.

RESUMPTION OF MEETING

The Meeting resumed at 1.30pm.

**a13 [PR-CM] Unauthorised Activity - Poultry Farm at Lot 1 DP 881996 No. 576
Cudgen Road, Cudgen**

LATE ITEM

82

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Item a13 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr K Skinner

83

**Cr D Holdom
Cr W Polglase**

RESOLVED that this item be discussed in confidential session with the resolution and voting to be in open Council.

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

AGAINST VOTE - Cr K Milne

ABSENT. DID NOT VOTE - Cr K Skinner

CONFIDENTIAL COMMITTEE

84

**Cr D Holdom
Cr P Youngblutt**

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

85

**Cr P Youngblutt
Cr D Holdom**

RESOLVED that Council resumes in Open Council.

**Cr D Holdom
Cr J van Lieshout**

RESOLVED that:

1. ATTACHMENTS 2-6 are CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
2. Council engages its Solicitors to enforce compliance with the NSW Land and Environment Court Orders dated 9 December 2011 for the premises known as No. 576 Cudgen Road, Cudgen (Lot 1 DP881996).

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

AGAINST VOTE - Cr K Milne

ABSENT. DID NOT VOTE - Cr K Skinner

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

14 [CNR-CM] Kingscliff Coastal Zone Management Update

86

Cr D Holdom
Cr P Youngblutt

RESOLVED that Council:

1. Advises receipt of the letter from the Hon. Robyn Parker, Minister for the Environment, dated 1 February 2012 and confirms that it has commenced the recommended actions.
2. Reconfirms the strategy for the protection of Kingscliff Beach with an update of the Tweed Shire Coastline Management Plan 2005 to a Coastal Zone Management Plan in accordance with the *Coastal Protection Act 1979 No. 13*.
3. Officers prepare an application for funding assistance through the NSW Government's Coastal Management Program 2012/2013 for undertaking a socio-economic assessment of the proposed strategy for the long term protection of Kingscliff Beach and developing the Tweed Coastal Zone Management Plan.
4. Notes that the option of accepting retreat will result in the Kingscliff Town Centre being under threat in the medium term (2050).

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

15 [CNR-CM] Review of Tweed Urban Stormwater Quality Management Plan - Public Exhibition

87

Cr D Holdom
Cr P Youngblutt

RESOLVED that the revised Tweed Urban Storm Water Quality Management Plan be placed on public exhibition for 28 days, inviting public submissions for a period of 42 days.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

16 [CNR-CM] Impact of Wake on Tweed River Bank Erosion - Study Exhibition

88

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that the Impact of Wake on Tweed River Bank Erosion Study be placed on public exhibition for 28 days, inviting public submissions for a period of 42 days.

The Motion was **Carried**

***FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner***

89

17 [CNR-CM] Budd Park River Bank Stabilisation and Park Reconfiguration

90

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council undertakes a process of consultation to allow the community to provide feedback on its preferred option to undertake stabilisation of the river bank at Budd Park for public exhibition for 28 days, inviting public submissions for a period of 42 days.

The Motion was **Carried**

***FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner***

18 [CNR-CM] Interpretation of State Environmental Planning Policy 26 Littoral Rainforest

91

**Cr D Holdom
Cr J van Lieshout**

RESOLVED that:

1. Council prepares the necessary application under the Tweed Local Environment Plan 2000 for the removal of the three nominated trees assessed as being a health and safety risk, being two Tuckeroos (*Cupaniopsis anarcardioides*) and

one Three-veined Laurel (*Cryptocarya triplinervis*), from Lot 7079 DP 1112977 at Lagoon Road, Fingal Head.

2. Council officers implement an appropriate compensatory planting program to replace the three trees.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

ABSENT. DID NOT VOTE - Cr K Skinner

19 [CNR-CM] Progress Update Eviron Road Quarry and Landfill Proposal

92

Cr D Holdom

Cr P Youngblutt

RESOLVED that Council receives and notes the progress update on Eviron Road Quarry and Landfill Proposal and Council staff organise a Workshop to further update Council.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr K Skinner

20 [CNR-CM] NSW Environmental Trust Grant - Raising Illegal Dumping Awareness in the Northern Rivers

93

Cr K Milne

Cr J van Lieshout

RESOLVED that Council:

1. Accepts the \$49,625 financial assistance from the NSW Environmental Trust for the implementation of the North East Waste Forum project "Raising illegal dumping awareness in the northern rivers".
2. Votes the funds accordingly.
3. Executes all documentation under the Common Seal of Council.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

21 [CNR-CM] Draft Waste Minimisation and Management - Tweed Development Control Plan

94

Cr D Holdom
Cr J van Lieshout

RESOLVED that the Draft Waste Minimisation and Management development control section A15 of the Tweed Development Control Plan be placed on public exhibition for 28 days.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

22 [CNR-CM] Tweed River Art Gallery - Memorandum of Understanding - Tweed Shire Council and Margaret Olley Art Trust

95

Cr B Longland
Cr D Holdom

RESOLVED that Council:

1. Accepts the terms as laid out in the Memorandum of Understanding.
2. Authorises signing of the Memorandum of Understanding by the General Manager.
3. Forwards the Memorandum of Understanding to the Margaret Olley Art Trust for counter-signature.
4. Endorses the proposed travel costs of the Art Gallery Director to Dublin, London and Bologna as part of the assessment process of the Margaret Olley Art Centre, funded in cooperation with the Gordon Darling Foundation, Friends of the Tweed River Art Gallery and Council.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

ABSENT. DID NOT VOTE - Cr K Skinner

23 [CNR-CM] Pottsville Beach Neighbourhood Centre

96

Cr D Holdom

Cr P Youngblutt

RESOLVED that Council:

1. Accepts the revised project budget listed in this report on the Pottsville Beach Neighbourhood Centre.
2. Votes additional funds to the project of \$90,855 exclusive of GST, with funding to be provided equally from Contribution Plan 15 and Community and Cultural Services Budget (Salary Savings).
3. Makes the necessary budget adjustments in the March 2012 Quarterly Budget Review.

Cr W Polglase left the meeting at 02:23 PM

Cr W Polglase has returned from temporary absence at 02:24 PM

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr K Skinner

24 [CNR-CM] Water Demand Management Key Performance Indicators and Progress Report

97

Cr D Holdom

Cr P Youngblutt

RESOLVED that Council notes the performance of the Demand Management Strategy implementation against the adopted overall Key Performance Indicators and the Performance Indicators for individual programs.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr K Skinner

25 [CNR-CM] Ageing Disability and Home Care 2009/2012 Funding Variation

Cr D Holdom left the meeting at 02:25 PM

Cr D Holdom has returned from temporary absence at 02:26 PM

98

Cr J van Lieshout

Cr K Milne

RESOLVED that Council:

1. Accepts the \$11,720.10 variation of funds from NSW Government Family & Community Services, Ageing Disability and Home Care.
2. Votes the expenditure to the identified client as per the Schedule 1 - Family and Community Services (confidential attachment).
3. Executes the acceptance of funding variation documents under the Common Seal of Council.
4. The ATTACHMENT be treated as CONFIDENTIAL in accordance with Section 10A(2)(c) and (d) of the Local Government Act, 1993, because it contains:
 - (c) *information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business*
 - (d) *commercial information of a confidential nature that would, if disclosed:*
 - (i) *prejudice the commercial position of the person who supplied it, or*
 - (ii) *confer a commercial advantage on a competitor of the council, or*
 - (iii) *reveal a trade secret*

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr K Skinner

REPORTS FROM THE ACTING DIRECTOR ENGINEERING AND OPERATIONS

26 [EO-CM] Acquisition of Proposed Easement for Underground Powerlines and Multi-Purpose Installation within Lots 63 and 64 DP 855462 and Lot 2 DP 1040120 - Overall Drive, Pottsville

99

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:

1. Council approves the acquisition of proposed Easement for Underground Powerlines and Multi-Purpose Installation within Lots 63 and 64 in DP 855462 and Lot 2 in DP 1040120 at Pottsville; and
2. All documentation be executed under the Common Seal of Council.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

ABSENT. DID NOT VOTE - Cr K Skinner

27 [EO-CM] Acquisition of Proposed Easement for Underground Powerlines Variable Width within Lot 1 DP 780163 - Arkinstall Park, Sullivan Street, Tweed Heads South and Lot 34 DP 258723 - Blundell Estate Park, Amber Road, Tweed Heads South

100

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council:

1. Approves the acquisition of Easement for Underground Powerlines Variable Width within Lot 1 DP 780163 at Arkinstall Park, Sullivan Street Tweed Heads South by Essential Energy;
2. Approves the acquisition of Easement for Underground Powerlines Variable Width within Lot 34 DP 258723 at Blundell Estate Park, Amber Road Tweed Heads South by Essential Energy;
3. Approves the quantum of compensation payable for the acquisitions from Council;
4. Executes all documentation under the Common Seal of Council.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr K Skinner

28 [EO-CM] EC2012-003 Supply and Laying of Asphaltic Concrete Overlays

101

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:

1. The tender from Fulton Hogan Industries Pty Ltd be accepted to the value of \$496,780.00 exclusive of GST for tender EC2012-003 Supply and Laying of Asphaltic Concrete Overlays.
2. The General Manager be given delegated authority to approve variations up to \$150,000 excluding GST above the initial tender price and those variations reported to Council following completion of works.
3. The ATTACHMENT be treated as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

The Motion was **Carried**

***FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner***

a28 [EO-CM] Road Closure and Opening - Cylinders Drive, Kingscliff

LATE ITEM

102

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Item a28 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

***FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner***

103

Cr D Holdom
Cr P Youngblutt

RESOLVED that Council:

1. Approves the transfer of Lots 10-18 in DP 1170748, being road closure parcels, to the adjoining land owners in exchange for road dedication as shown in DP 1170748; and
2. All necessary documentation to be executed under the Common Seal of Council.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

29 [TCS-CM] Local Government Elections September 2012

104

Cr W Polglase
Cr P Youngblutt

RESOLVED that Council receives and notes the report on the Local Government Elections 2012 update.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

30 [TCS-CM] Constitutional Recognition of Local Government

105

Cr P Youngblutt
Cr D Holdom

RESOLVED that Council reaffirms its commitment for Constitutional Recognition for Local Government and makes allowance in the current Budget and Long Term Financial Plan for the payment of the requested contribution of \$28,279.51 plus GST.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

31 [TCS-CM] Legal Services Register as at 31 December 2011

106

Cr P Youngblutt
Cr D Holdom

RESOLVED that Council receives and notes the Legal Services Register as at 31 December 2011.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

32 [TCS-CM] Complaint Analysis Report - 1 October to 31 December 2011

107

Cr P Youngblutt
Cr D Holdom

RESOLVED that Council receives and notes the Complaint Analysis Report for 1 October to 31 December 2011.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

33 [TCS-CM] In Kind and Real Donations - October to December 2011

108

Cr P Youngblutt
Cr D Holdom

RESOLVED that Council notes the total donations of \$16,756.86 for the period October to December 2011.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

34 [TCS-CM] Monthly Investment and Section 94 Developer Contributions Report for the Period Ending 31 January 2012

109

Cr P Youngblutt
Cr D Holdom

RESOLVED that in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at period ending 31 January 2012 totalling \$158,434,906.41 be received and noted.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

35 [TCS-CM] Quarterly Budget Review December 2011

DISCLOSURE OF INTEREST

Cr D Holdom wishes to declare a significant, non pecuniary Interest in Item 35. The nature of the interest is that Cr Holdom's spouse is a member of the Executive of the Cudgen Headland Surf Lifesaving Club.

110

Cr P Youngblutt
Cr J van Lieshout

RESOLVED that:

1. The Quarterly Budget Review Statement as at 31 December 2011 be adopted.
2. The expenditure and income, as summarised below and detailed within the report, be voted and adjusted in accordance with the revised total expenditure and income for the year ending 30 June 2012.

Description	Change to Vote	
	Deficit	Surplus
General Fund		
<u>Expenses</u>		
Employee costs	0	283,634
Materials & Contracts	0	7,823
Interest	0	0
Other Operating costs	15,702	0

Description	Change to Vote	
	Deficit	Surplus
Capital	1,828,432	0
Loan Repayments	0	0
Transfers to Reserves	0	56,449
	<u>1,844,134</u>	<u>347,906</u>
<u>Income</u>		
Rates and Annual Charges	0	0
Interest revenue	0	125,241
Operating Grants & Conts	0	180,013
Capital Grants & Conts	0	1,175,800
User Charges & Fees	209,090	0
Other Operating Revenue	0	0
Loan Funds	0	262,867
Recoupments	613,634	0
Transfers from Reserves	0	575,031
Asset Sales	0	0
	<u>822,724</u>	<u>2,318,952</u>
Net Surplus/(Deficit)		<u>0</u>
Sewer Fund		
<u>Expenses</u>		
Employee costs	0	0
Materials & Contracts	0	229,897
Interest	0	0
Other Operating costs	0	0
Capital	0	3,078,200
Loan Repayments	0	0
Transfers to Reserves	532,097	0
	<u>532,097</u>	<u>3,308,097</u>
<u>Income</u>		
Rates and Annual Charges	0	0
Interest revenue	0	494,011
Operating Grants & Conts	0	0
Capital Grants & Conts	0	532,097
User Charges & Fees	0	0
Other Operating Revenue	0	0
Loan Funds	0	0
Recoupments	1,162,200	0
Transfers from Reserves	2,639,908	0
Asset Sales	0	0
	<u>3,802,108</u>	<u>1,026,108</u>
Net Surplus/(Deficit)		<u>0</u>
Water Fund		
<u>Expenses</u>		
Employee costs	0	0
Materials & Contracts	837,528	0
Interest	0	0
Other Operating costs	0	0
Capital	0	4,985,722
Loan Repayments	0	0
Transfers to Reserves	810,723	0
	<u>1,648,251</u>	<u>4,985,722</u>
<u>Income</u>		
Rates and Annual Charges	0	106,902
Interest revenue	0	0

Description	Change to Vote	
	Deficit	Surplus
Operating Grants & Conts	0	0
Capital Grants & Conts	0	1,107,310
User Charges & Fees	0	47,539
Other Operating Revenue	0	0
Loan Funds	0	0
Recoupments	4,624,986	0
Transfers from Reserves	0	25,764
Asset Sales	0	0
	4,624,986	1,287,515
Net Surplus/(Deficit)		0

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr D Holdom, Cr K Skinner

36 [TCS-CM] Corporate Quarterly Report - 1 October to 31 December 2011

Cr D Holdom has returned from temporary absence at 02:58 PM

111

Cr P Youngblutt
Cr D Holdom

RESOLVED that Council receives and notes the Corporate Quarterly Report from 1 October to 31 December 2011.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

37 [TCS-CM] Delivery Program Six Monthly Progress Report - 1 July to 31 December 2011

112

Cr P Youngblutt
Cr W Polglase

RESOLVED that Council notes the Delivery Program Six Monthly Progress Report as at 31 December 2011.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

38 [SUB-TRC] Minutes of the Tweed River Committee Meeting held Wednesday 14 December 2011

113

Cr K Milne
Cr D Holdom

RESOLVED that the:-

1. Minutes of the Tweed River Committee Meeting held Wednesday 14 December 2011 be received and noted; and
2. The recommendations of the Executive Management Team be adopted as follows

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

BA1. Impact of Wake on Tweed River Banks

That Council places the 'Impact of Wake on Tweed River Bank Erosion Study' on public exhibition.

BA2. Budd Park

That Council places the Budd Park River Bank Stabilisation and Park Enhancement options on public exhibition.

BA4. Gold Coast Airport Water Quality Data

That Council:

1. Writes to the Gold Coast Airport's regulator, the Commonwealth Department of Infrastructure, to pursue the matter of obtaining water quality data from gold coast airport monitoring of drainage, surface or ground waters that may impact upon Cobaki Broadwater.
2. Includes in the request the context of Tweed Shire Council's role in managing Cobaki Broadwater, and details of previous requests to the airport.
3. Provides a copy of the correspondence to the Commonwealth Department of Infrastructure to the Gold Coast Airport.

GB4. Treasures of the Tweed Mural – Film Production

That a film focusing on the Treasures of the Tweed mural be produced with costs to be shared between NORTEC, Council's Community and Cultural Services Unit and the Tweed River Committee on an agreed basis.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr K Skinner

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

114

Cr P Youngblutt

Cr D Holdom

RESOLVED that the reports from subcommittees and or Working Groups be received and noted.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr K Skinner

ORDERS OF THE DAY

40 [NOM-Cr B Longland] Small Business Assistance Package

115

Cr B Longland

Cr K Milne

PROPOSED that Council seeks the cooperation of the NSW Business Chamber and Destination Tweed to establish a working group with other relevant stakeholders with a view to developing a Small Business Assistance Package for businesses establishing in the Tweed, with regular updates to be provided to the Council.

116

AMENDMENT

Cr J van Lieshout
Cr K Milne

RESOLVED that Council supports the development of a Small Business Assistance Package for businesses establishing in the Tweed and conducts a Workshop.

The Amendment was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

The Amendment on becoming the Motion was **Carried** - (Minute No 116 refers)

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

41 [NOM-Cr K Milne] Small Business Incubator Hubs

NOTICE OF MOTION:

The Motion lapsed as there was no seconder.

42 [NOM-Cr K Milne] Seniors' Age Specific Exercise Facilities

NOTICE OF MOTION:

Cr W Polglase left the meeting at 03:22 PM

117

Cr K Milne
Cr J van Lieshout

RESOLVED that Council brings forward a report on the possibility of expanding the provision of seniors' age specific exercise facilities in some Council parks.

Cr W Polglase has returned from temporary absence at 03:24 PM

The Motion was **Carried**

FOR VOTE - Cr D Holdom, Cr W Polglase, Cr K Milne, Cr J van Lieshout, Cr B Longland
AGAINST VOTE - Cr P Youngblutt
ABSENT. DID NOT VOTE - Cr K Skinner

43 [NOM-Cr K Milne] Budget Allocation Open Space

NOTICE OF MOTION:

The Motion lapsed as there was no seconder.

44 [NOM-Cr K Milne] Legal Advice Tweed Richmond Regional Library

NOTICE OF MOTION:

The Motion lapsed as there was no seconder.

Cr P Youngblutt left the meeting at 03:28 PM

QUESTIONS ON NOTICE

45 [QoN-Cr K Milne] Equal Employment Opportunity for the General Manager

QUESTION ON NOTICE:

Councillor K Milne asked can Council outline what actions were taken in relation to promoting Equal Employment Opportunity (EEO) for disadvantaged groups for the latest recruitment process for the General Manager?

The General Manager reported the recruitment process to Council on 15 November 2011. In that report to Council, Councillors were formally advised that Equal Employment Opportunity principles applied.

Specific reference in that report was made to the Local Government Act 1993 in regard to EEO requirements as outlined in Section 349 and Section 344.

Section 344 states the EEO objects as being:

- (a) *to eliminate and ensure the absence of discrimination in employment on the grounds of race, sex, marital status and disability in councils.*
- (b) *to promote EEO for women, members of racial minorities and persons with disabilities in councils.*

Section 349 states that *from among the applicants eligible for appointment, the applicant who has the greatest merit is to be selected. The merit of the persons eligible for appointment to a position is to be determined according to*

- (a) *the nature of the duties of the position, and*
- (b) *the abilities, qualifications, experience and standard of work performance of those persons relevant to these duties.*

I understand the vacancy was advertised in a manner designed to capture the widest interest from all employment groups.

I also note that a specific responsibility of the position is to develop and implement Council's EEO Management Plan as provided to applicants.

In summary overall, EEO was given a high exposure during the recruitment process.

Cr P Youngblutt has returned from temporary absence at 03:29 PM

46 [QoN-Cr K Milne] Quarry Activities

QUESTION ON NOTICE:

Councillor K Milne asked can Council advise on the Quarry activities being undertaken in this Shire in relation to:

- a) the quantity of Quarry materials currently extracted for use in this Shire and the quantity exported from this Shire per annum? and
- b) any increases in quantities extracted or exported in this current Council term or proposed increases in these quantities and exports?

The Acting Director Engineering and Operations responded:

- (a) This information is for production from Tweed Shire Council quarries only as data for privately operated quarries cannot be sourced.

Council over the period 2008/2009 to 2011/2012 (to date) has extracted quantities as follows:

Year	2008/2009	2009/2010	2010/2011	2011/2012
Tonnes	111,621	119,990	204,340	108,000 ⊗
Change over 2008/2009		+8,369	+92,719	⊗
Private Sales	33,994	49,651	120,673*	100,000*
Change over 2008/2009	-	+15,657	+86,679	⊗
Council Use	70,026	66,841	83,668	8,087 ⊗
Change over 2008/2009	-	-3,185	+13,642	⊗

Notes:

*

A major purchase

⊗

Full year results

(b) The quantities to be

extracted. It should be noted that 2010/2011 and 2011/2012 are significantly higher than 2008/2009 and 2009/2010 due to sales of 120,673 and 100,000 tonnes to the Banora Point Upgrade Alliance for the Pacific Highway Upgrade at Banora Point in 2010/2011 and 2011/2012 respectively.

It is anticipated that production will decrease in 2012/2013.

The proportion of other private sales that are exported from the shire cannot be determined as information on destinations is generally not collected.

Some of this material would have gone outside of the Shire as it was purchased by landscaping companies operating between Ballina and the Gold Coast.

47 [QoN-Cr K Milne] Legal Provider

QUESTION ON NOTICE:

DECLARATION

Cr K Milne made a statement with regard to Item 47:

I would like to make a statement to clarify my participation in relation to Item 47 in today's business papers.

I have considered the relevant provisions of Council's Code of conduct and I believe there are no impediments to me participating in debate and voting on these matters despite a defamation claim served against me, on 20 December 2010, by Mr William Robert (Bob) Ell, the owner of Kings Forest and Cobaki developments.

I am of the view that these circumstances do not create a private interest for me in these items, either directly or by association.

As many will be aware, I have had an ongoing involvement in the larger policy issues of greenfield developments well before 20 December 2010, and I will continue to participate in discussion and voting on such matters from a public interest perspective, and - where an item involves consideration of a development application - on merits of each application."

Councillor K Milne asked can Council advise if it is still appropriate to retain Stacks Law Firm as one of Council's legal providers in light of Stacks Law Firm also providing legal services to LEDA Developments, who have significant development projects in the Tweed Shire, as well as Stacks Law Firm currently providing legal services to the Chairman of LEDA Developments, Mr Bob Ell, in a defamation case against Councillor Milne?

The Director Community Technology and Corporate Services responded that Council at its meeting 15 September 2009, resolved to appoint Stacks the Law Firm as a panel provider to Category 2 - Commercial/ Property Law and also to conduct appropriate Local and District Court Matters for a period of 3 years. Stacks the Law Firm ceased being a panel provider for any new matters for Category 1 - Planning, Environmental and Local Government Law at that date.

Any legal provider is able to represent other clients so long as a conflict of interest does not exist or provided Council has not briefed them on the matter. Given that Stacks the Law Firm are providing services to LEDA outside of Category 2 and that the defamation case referred to in the Question on Notice is a private matter against the said Councillor as a private individual and also considering the Councillor's prior Disclosure of Interest

Statements at previous Council meetings regarding LEDA developments, Stacks representation on Council matters is still in accordance with the tender and their brief.

48 [QoN-Cr K Milne] Fluoride

QUESTION ON NOTICE:

Councillor K Milne asked what are the costs involved in applying fluoride to Tweed's drinking water supply, including for chemicals, staff time and training and infrastructure costs, and can Council comment on the new information in relation to the effectiveness of ingesting fluoride rather than applying fluoride topically with toothpaste?

The Director Community and Natural Resources responded that the capital cost for the installation of the fluoride system at Bray Park Water Treatment Plan was \$450,000. The operational cost is roughly estimated \$60,000 per year.

Council has added fluoride to its main water supply at Bray Park since 1969 under the continual direction, guidance and advice of NSW Health and as operators of the system we are not in position to provide comment on the relative effectiveness or otherwise of ingesting fluoride versus application with toothpaste.

49 [QoN-Cr K Milne] Richmond Tweed Regional Library

QUESTION ON NOTICE:

Councillor K Milne asked can Council provide an outline and preliminary response to the concerns raised by Byron Shire Council at the recent Richmond Tweed Regional library meeting in relation to the Administrative model and draft service level agreements proposed?

The General Manager responded that individual Byron Shire councillors and their General Manager expressed a range of concerns as outlined in the draft Minutes. These concerns are:

1. The Administrative Council Model is fundamentally flawed, and
2. Specific concerns related to the distribution of assets, cost of withdrawal and consultation.

It is not appropriate that I provide my understanding of the basis of those concerns in a public forum given that it clearly would be my interpretation of those individual's positions. Byron Shire Council has not formally resolved a position in regard to such matters.

I will advise that senior management at Tweed continue to remain of the view that the Administrative Council Model provides the preferred option for the delivery of library services in accordance with agreed service levels.

CONFIDENTIAL COMMITTEE

118

Cr D Holdom
Cr P Youngblutt

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

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

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

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

1 [CNR-CM] Contract for the Provision of Greenwaste Processing and Marketing Services - EC2008-151

REASON FOR CONFIDENTIALITY:

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

- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

C 120

That Council approves the termination of the Contract EC2008-151 pursuant to clause 14(a) of the contract on the basis that Council has formed the opinion that Tropical Mulch Pty Ltd is unable to complete the contract.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

ABSENT. DID NOT VOTE - Cr K Skinner

REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES IN COMMITTEE

2 [TCS-CM] Options for Sale of Land for Unpaid Rates

REASON FOR CONFIDENTIALITY:

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

- (a) personnel matters concerning particular individuals (other than councillors)

C 121

That Council endorses a Court instigated recovery process for Lot 2 DP726118 in relation to unpaid rates charges and costs associated with on site sewerage management enforcement action taken under the Protection of the Environment Operations Act 1997.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

ABSENT. DID NOT VOTE - Cr K Skinner

(a)13 [PR-CM] Unauthorised Activity - Poultry Farm at Lot 1 DP 881996 No 576 Cudgen Road, Cudgen

This item was discussed in Confidential session with the decision and voting being held in open Council - Minute Nos. 82 to 85 refer.

119

Cr D Holdom
Cr P Youngblutt

RESOLVED that the recommendations of the Confidential Committee be adopted.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Skinner

There being no further business the Meeting terminated at 3.55pm.



Minutes of Meeting Confirmed by Council

at the

Council Meeting held on xxx

Chairman

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