

6<sup>th</sup> October 2011

**BY EMAIL**

Rowena Michel  
Civic and Cultural Centre  
Tumbulgum Road  
Murwillumbah NSW 2484

**Reference: 201110004**

Dear Rowena,

**RE: Kingscliff Police Station – Conditions of Consent**

Thank you for providing us with draft Conditions of Consent (dated 4 October 2011).

We respond to each of the draft conditions as follows:

1. This condition is acceptable to UGL.
2. This condition is acceptable to UGL.
3. This condition is acceptable to UGL.
4. This condition is acceptable to UGL.
5. Please delete this condition. We note that Council has made provisions under Condition 20.
6. The content of this condition is required as a matter of law by Council approving the plans in Condition 1. Accordingly this condition is not necessary. Notwithstanding this, UGL agree to the imposition of this condition.
7. This condition is acceptable to UGL. However, the reference to Section 109F (i) to should be to Section 109F (1).
8. This condition is acceptable to UGL.
9. This condition is part of a number of conditions that relate to the same issue. Conditions 9, 15, 20, 21, 42, 58, 59 & 63 all relate to the design and construction of road works and the requirement to obtain approval from the roads authority under Section 138 of the Roads Act 1993. These conditions are inconsistent. UGL requests that these conditions be consolidated into one condition, which clearly outlines the standards and specifications to be met in relation to the proposed

road works. In addition, we see little utility in having Council approve the road works in its capacity as a consent authority as well as roads authority. We suggest that Council only need act in its capacity as roads authority in this instance. In relation to condition 9 specifically, we note that an incorrect number of vehicular footpath crossings has been identified. This needs to be amended from four (4) to five (5) footpath crossings.

10. This condition is acceptable to UGL.

11. This condition is acceptable to UGL subject to the following amendment. The last sentence should be amended to read: "The flagpole must not extend higher than the front of the building". We note that the front of the building is 9.5m high, whereas the flag pole is a standard 9m high.

12. This condition is unacceptable. We request Council provide further information on the shortfall of parking spaces. This condition provides that additional parking spaces be provided opposite the Police Station for the length of the Police Station (which is approximately 134m). This number of parking spaces would exceed the alleged shortfall. UGL would like to engage further with Council in relation to upgrading the standard of the area opposite the Police Station but this upgrade would be limited.

13. This condition is unacceptable in its current form. Sufficient parking spaces have been provided to comply with DCP requirements for the building. UGL/NSWPF is willing to leave the unsecured parking area unsigned but does not wish to designate the area as customer parking given the precedent effect this is likely to have in relation to other Police Station developments around New South Wales.

14. This condition is unacceptable in its current form. Sufficient parking spaces have been provided to comply with DCP requirements for the building. We note that sufficient parking has been provided to allow for staff to park on the site, however, NSWPF cannot agree to designate the secured parking areas as staff parking given the precedent effect this is likely to have in relation to other Police Station developments around New South Wales. As noted in the additional documents provided to Council, the use of the secured part of the site must, for security and operational reasons, remain at the discretion of the Local Area Commander.

15. It is unclear whether this condition is referring to the angled parking referred to in condition 12. If so, UGL cannot currently agree to the imposition of the condition.

16. This condition is unacceptable. This development, being a Police Station (i.e. a public facility), is itself a material public benefit such that it would be wholly unreasonable and contrary to public policy to impose a S94 contribution as a condition of consent. UGL considers that this draft condition would arguably fail the *Newbury* test for a lawful condition on the basis that no reasonable Council would impose such a condition.

17. This condition is unacceptable. This development, being a Police Station (i.e. a public facility), is itself a material public benefit such that it would be wholly unreasonable and contrary to public policy to impose such a contribution as a condition of consent. UGL considers that this draft condition would arguably fail the *Newbury* test for a lawful condition on the basis that no reasonable Council would impose such a condition.

18. This condition is unacceptable. Council may rely on its rights to enforce the conditions of consent under the Environmental Planning and Assessment Act 1979. Therefore, this condition is not required.

19. This condition is acceptable to UGL.

20. This condition is part of a number of conditions that relate to the same issue. Conditions 9, 15, 20, 21, 42, 58, 59 & 63 all relate to the design and construction of road works and the requirement to obtain approval from the roads authority under Section 138 of the Roads Act 1993. These conditions are inconsistent. UGL requests that these conditions be consolidated into one condition, which clearly outlines the standards and specifications to be met in relation to the proposed road works. In addition, we see little utility in having Council approve the road works in its capacity as a consent authority as well as roads authority. We suggest that Council only need act in its capacity as roads authority in this instance. In relation to condition 20 specifically, we note that the location of any construction needs to be clarified and as such the wording under Urban Road should be "Construction on the Western Side/Police Station Side of Marine Parade....". In addition, the size of the footpath specified is inconsistent with the size noted in condition 21.

21. This condition is part of a number of conditions that relate to the same issue. Conditions 9, 15, 20, 21, 42, 58, 59 & 63 all relate to the design and construction of road works and the requirement to obtain approval from the roads authority

under Section 138 of the Roads Act 1993. These conditions are inconsistent. UGL requests that these conditions to be consolidated into one condition, which clearly outlines the standards and specifications to be met in relation to the proposed road works. In addition, we see little utility in having Council approve the road works in its capacity as a consent authority as well as roads authority. We suggest that Council only need act in its capacity as roads authority in this instance. In relation to condition 21 specifically, the size of the footpath specified is inconsistent with the size noted in condition 20. We further note that the numbers of footpath crossings and frontages needs to be corrected to: "Construction of five (5) vehicular footpath crossings; four (4) in the Kingscliff Street frontage and one in the Marine Parade frontage."

22. This condition is acceptable to UGL.

23. This condition is not applicable and, therefore, should be deleted. All walls of the building are well within 3m distance from any boundary and as such, no ground anchors protruding into public land will be required.

24. This condition is acceptable to UGL.

25. This condition is acceptable to UGL subject to the following comment. As the condition is referring to permanent stormwater quality treatments, the text "Specific Requirements to be detailed including: Shake down area along the haul route immediately before the intersection with the road reserve" appears out of place and it is suggested should be removed. Shake down treatment would only be required during construction and would be covered by the erosion and sediment management plans.

26. This condition is acceptable to UGL.

27. This condition is acceptable to UGL subject to the following comments. The wording of the condition should be revised from "The infiltration rate for sizing infiltration devices shall be 3m per day:" to "The infiltration rate for sizing infiltration devices shall be 50% of the tested saturated hydraulic conductivity at the site (i.e. a factor of safety of 2) unless further testing shows a higher rate may safely be infiltrated to a maximum of 12m/day:"

The soil testing undertaken previously found a 1,001mm/hr. saturated hydraulic conductivity, which with a factor of safety of 2 equates to 12m/day – the maximum permitted under Clause D7.9.9.

The following part of the condition should also be revised: "The infiltration devices are to be designed to allow for construction and operation vehicular loading" to "where no vehicular barrier has been provided".

28. This condition is acceptable to UGL.

29. This condition is acceptable to UGL.

30. This condition is acceptable to UGL.

31. This condition is acceptable to UGL subject to the following comments. Please revise the wording of the condition to "Prior to commencement of works, an asbestos report prepared by as suitably qualified person shall be submitted to Tweed Shire Council to the satisfaction of the General Manager or his delegate, acting reasonably.... In the event that asbestos contamination is found in excess of health investigation levels, a remediation action plan (RAP) is to be prepared and approved by Council's General Manager or his delegate, acting reasonably. All works shall be in accordance with the approved RAP, if required."

32. This condition is acceptable to UGL subject to the following amendment. Please revise the wording of the condition to: "The stormwater discharge provisions to the Marine Parade Frontage are to be modified to that shown in the submitted Stormwater Management Plan. The proposed new kerb inlet pit and downstream stormwater pipe may be unnecessary and the preferred discharge method is that the intended 100mm diameter stormwater discharge pipe shall instead be discharged to the existing kerb and gutter, via a galvanised rectangular hollow section across the footpath area. Should this be unachievable, alternative options may be considered. Details are to be submitted with the Sec. 68 stormwater application."

33. This condition is acceptable to UGL.

34. This condition is acceptable to UGL.

35. This condition is acceptable to UGL.

36. This condition is unacceptable. This is a notation and not a valid, enforceable condition. It is likely that this condition would fail the *Newbury Test*.
37. This condition is not applicable and, therefore, should be deleted. Proposed excavation works do not impact other properties.
38. This condition is not applicable and, therefore, should be deleted. We refer Council to section 81A of the Environmental Planning and Assessment Act 1979 and note the exemptions for Crown building works.
39. This condition is acceptable to UGL subject to the following amendment. Please revise the wording of the condition to: "The applicant shall take out Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the site is commissioned as a Police Station".
40. This condition is acceptable to UGL.
41. This condition is acceptable to UGL.
42. . This condition is part of a number of conditions that relate to the same issue. Conditions 9, 15, 20, 21, 42, 58, 59 & 63 all relate to the design and construction of road works and the requirement to obtain approval from the roads authority under Section 138 of the Roads Act 1993. These conditions are inconsistent. UGL requests that these conditions to be consolidated into one condition, which clearly outlines the standards and specifications to be met in relation to the proposed road works. In addition, we see little utility in having Council approve the road works in its capacity as a consent authority as well as roads authority. We suggest that Council only need act in its capacity as roads authority in this instance.
43. This condition is not applicable and, therefore, should be deleted. We refer Council to section 81A of the Environmental Planning and Assessment Act 1979 and note the exemptions for Crown building works.
44. This condition is not required and, therefore, should be deleted. A soil contamination report has already been submitted.
45. The content of this condition is required as a matter of law. Accordingly this condition is not necessary. Notwithstanding this, UGL agree to the imposition of this condition.
46. This condition is acceptable to UGL.
47. This condition is acceptable to UGL subject to the following comments. Please revise the condition as follows: "All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment". Please delete conditions 47A and 47B conditions. UGL and NSWPF are aware of their legal obligations in relation to offensive and nuisance noise.
48. The content of this condition is required as a matter of law. Accordingly this condition is not necessary. Notwithstanding this, UGL agree to the imposition of this condition.
49. This condition is acceptable to UGL.
50. This condition is acceptable to UGL.
51. This condition is acceptable to UGL.
52. This condition is acceptable to UGL.
53. This condition is acceptable to UGL.
54. This condition is unacceptable and, therefore, should be deleted. The Development Application outlines the construction works, which includes excavation works and, therefore, the removal of sand. This is not a reasonable condition as Council already has information before it to assess the impacts of the sand removal.
55. This condition is acceptable to UGL subject to the following comments. Please revise the wording of the condition to: "The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles". Please delete the next sentence. We note that Council has statutory right to enforce this condition and as such, the second part of the current draft condition is not necessary.

56. This condition is acceptable to UGL subject to the following comments. Please revise the wording of the condition to change the word "necessary" in the second sentence to "reasonable". UGL and NSWPF are aware of their legal obligations in relation to pollution.

57. This condition is acceptable to UGL.

58. This condition is part of a number of conditions that relate to the same issue. Conditions 9, 15, 20, 21, 42, 58, 59 & 63 all relate to the design and construction of road works and the requirement to obtain approval from the roads authority under Section 138 of the Roads Act 1993. These conditions are inconsistent. UGL requests that these conditions to be consolidated into one condition, which clearly outlines the standards and specifications to be met in relation to the proposed road works. In addition, we see little utility in having Council approve the road works in its capacity as a consent authority as well as roads authority. We suggest that Council only need act in its capacity as roads authority in this instance.

59. This condition is part of a number of conditions that relate to the same issue. Conditions 9, 15, 20, 21, 42, 58, 59 & 63 all relate to the design and construction of road works and the requirement to obtain approval from the roads authority under Section 138 of the Roads Act 1993. These conditions are inconsistent. UGL requests that these conditions to be consolidated into one condition, which clearly outlines the standards and specifications to be met in relation to the proposed road works. In addition, we see little utility in having Council approve the road works in its capacity as a consent authority as well as roads authority. We suggest that Council only need act in its capacity as roads authority in this instance.

60. This condition is acceptable to UGL.

61. This condition is acceptable to UGL.

62. This condition is acceptable to UGL.

63. This condition is part of a number of conditions that relate to the same issue. Conditions 9, 15, 20, 21, 42, 58, 59 & 63 all relate to the design and construction of road works and the requirement to obtain approval from the roads authority under Section 138 of the Roads Act 1993. These conditions are inconsistent. UGL requests that these conditions to be consolidated into one condition, which clearly outlines the standards and specifications to be met in relation to the proposed road works. In addition, we see little utility in having Council approve the road works in its capacity as a consent authority as well as roads authority. We suggest that Council only need act in its capacity as roads authority in this instance.

64. This condition is acceptable to UGL.

65. This condition is acceptable to UGL.

66. This condition is acceptable to UGL subject to the following comments. Please revise the last paragraph to: "This inspection program is to be maintained until the site is commissioned as a Police Station."

67. This condition is acceptable to UGL.

68. This condition is acceptable to UGL subject to the following comments. Please delete the last bullet point ("completion of work and prior to occupation certificate"). As a Crown development, we are exempt from the requirement to obtain an Occupation Certification pursuant to section 109M of the Environmental Planning and Assessment Act.

69. This condition is acceptable to UGL.

70. This condition is acceptable to UGL.

71. This condition is acceptable to UGL.

72. This condition is acceptable to UGL.

73. This condition is acceptable to UGL subject to the following comments. Please revise the wording of the condition to: "The structure is to be sited as least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the sewer main are to be designed by a practicing Structural Engineer. The Engineer is to certify the

design of such footings and slabs to ensure that all building loads will be transferred to the foundation material and will not affect or be affected by the sewer main."

74. This condition is not applicable. We refer to our comments in relation to condition 43 above.

75. This condition is acceptable to UGL subject to the following comments. Please revise the wording of the condition to: "If required by a remediation action plan, a validation report prepared by a suitably qualified person shall be submitted to Tweed Shire Council to the satisfaction of the General Manager or his delegates, acting reasonably."

We refer Council to section 109M of the Environmental Planning and Assessment Act 1979 and note the exemptions for Crown building works.

76. This condition is acceptable to UGL subject to the following comments. Please revise the wording of the condition to: "The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of light, noise, dust and odours or the like." Please delete the second sentence as the first sentence will lead to compliance with the second part.

77. This condition is acceptable to UGL subject to the following comments. Please revise the wording of the condition to "...treated or shielded where considered reasonably necessary to the satisfaction of the General Manager."

78. Given the suggested amendment to condition 76, this condition is no longer required and, therefore, should be deleted.

79. This condition is acceptable to UGL.

80. This condition is acceptable to UGL.

81. This condition is unacceptable. Council will have approved the design and inspected the construction of the road and drainage works. If these works are not built in accordance with the requirements of the consent or the section 138 approval under the Roads Act 1993, Council has the ability to enforce those requirements. A defects liability period is, therefore, not required.

82. This condition is acceptable to UGL subject to the following comments. Please delete the second sentence starting "Any work carried out by Council..." Please see the comment in relation to the condition above.

83. This condition is acceptable to UGL.

84. This condition is not required and, therefore, should be deleted. It is essentially a repeat of Condition 80.

85. This condition. Is not required in the circumstances and, therefore, should be deleted.

86. This condition is acceptable to UGL.

87. This condition is acceptable to UGL.

88. This condition is acceptable to UGL.

89. This condition is unacceptable for the reasons outlined above in relation to a defects liability period.

90. This condition is unacceptable for the reasons outlined above in relation to a defects liability period.

Yours faithfully,



Sonja Vogeler

Capital Works Program Manager – NSW Police Portfolio

Direct: (02) 9224 7830

Sonja.Vogeler@ugllimited.com