

**JOINT REGIONAL PLANNING PANEL
(Northern Region)**

SUPPLEMENTARY REPORT

JRPP No	JRPP Reference Number
DA Number	DA11/0257
Local Government Area	Tweed Shire Council
Proposed Development	Construction of a Two Storey Police Station and Demolition of existing Police Station
Street Address	Pearl Street, Kingscliff, Lot 701 DP1002309
Applicant/Owner	UGL Services c/ New South Wales Police Force
Number of Submissions	Five and three additional
Recommendation	Refusal
Report by	Rowena Michel, Coordinator Development Assessment

FILE NO: DA11/0257

REPORT TITLE:

Supplementary Report - Development Application DA11/0257 for removal of the existing Police Station and construction of a new two (2) storey Police Station (JRPP) at Lot 701 DP 1002309; Pearl Street KINGSCLIFF

SUMMARY OF REPORT:

On Monday 12 September 2011, the Northern Region Joint Regional Planning Panel (JRPP) held a meeting at Tweed Shire Council to consider a development application for a proposed police station at Pearl Street Kingscliff.

The report considered by the panel is attached for information.

The Panel resolved:

“That Development Application DA11/0257 to Demolish Existing Police Station and Construct New Two Storey Police Station at Lot 701 DP1002309 Pearl Street Kingscliff be deferred to allow the proponent and Council to negotiate on the issue of carparking.”

On Tuesday 13 September 2011, Council officers met with the applicant and discussed car parking requirements. The applicant agreed to modify the design to provide additional car parking spaces.

On Friday 30 September 2011, Council received a ‘Transport and Traffic Assessment August 2011 Parking Addendum’ dated September 2011, as well as modified basement and ground floor plans.

The new plans depict an additional 6 car parking spaces in the basement as well as an additional 10 spaces on the ground floor plan.

Council officers have considered the amended traffic report and revised plans and are of the view that a shortfall of 5 spaces remain.

In order to compensate for this shortfall, conditions of approval are recommended to require the provision of angled on-street car parking on the eastern side of Marine Parade. Whilst this is not likely to result in any net increase in public parking in the area, it will at least formalise and improve public parking areas, likely to be impacted upon by any shortfall.

A draft set of conditions, including the requirement for angled on-street parking were forwarded to the applicant on 4 October 2011. As the development is a Crown development, conditions cannot be imposed without agreement of the Crown.

The applicant has provided a response to the conditions, which are detailed in the attachment.

The applicant does not agree to critical conditions, namely, conditions which require designation of parking for staff and customer use, conditions to provide angled parking on Marine Parade and conditions requiring payment of section 94 and section 64 contributions.

Council officers can not recommend approval of the proposal if key conditions are not agreed to and as such, it is recommended that the Panel refer the application to the Minister for determination, with the recommendation that the application be refused.

REPORT:

Applicant: UGL Services
Owner: N S W Police
Location: Lot 701 DP 1002309; Pearl Street KINGSCLIFF
Zoning: 5(a) Police
Cost: \$8,000 000.00

BACKGROUND:

On 27 May 2011, Council received a development application for construction of a new two storey police station and basement at 154 Marine Parade, Kingscliff (Lot 701 DP1002309).

A detailed description and assessment of the proposal is provided in the attachment report.

The primary concern with the proposal is the limited on-site car parking. Council officers calculated that the provision of car parking was short 25 spaces, from the requirement of 41, based on a rate of 40 spaces per 100m² (rate for office and public buildings specified in the Development Control Plan – Section A2). This rate includes parking for customers and staff.

The report considered by the Panel on 12 September 2011 recommended refusal due to the shortfall in car parking.

PARKING MODIFICATIONS

On 30 September 2011, the applicant provided an amended basement plan and ground floor plan as well as a revised transport and traffic assessment.

The amended basement plan includes an additional 6 car parking spaces in tandem arrangement. The plan identifies which spaces would be reserved for operational vehicles in blue and 'spare' in yellow.

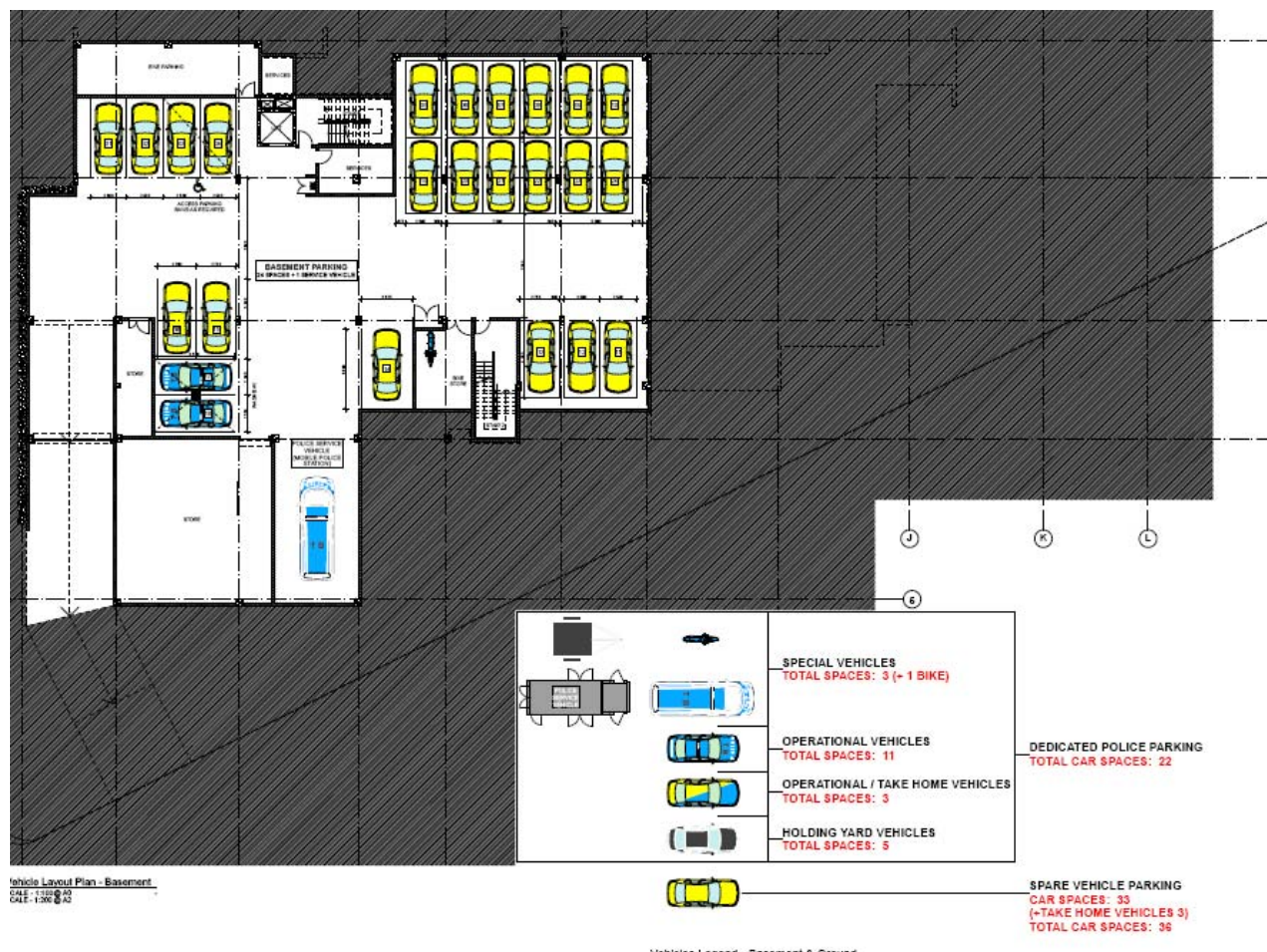


Figure 1 – Extract from Gardner Wetherill & Associates - Basement Level Plan - Drawing Number DA1110

The ground level plan has been modified to include an additional 10 spaces in the landscaped open space on the southern portion of the site. It also clarifies the likely use of car parking spaces at the ground level.

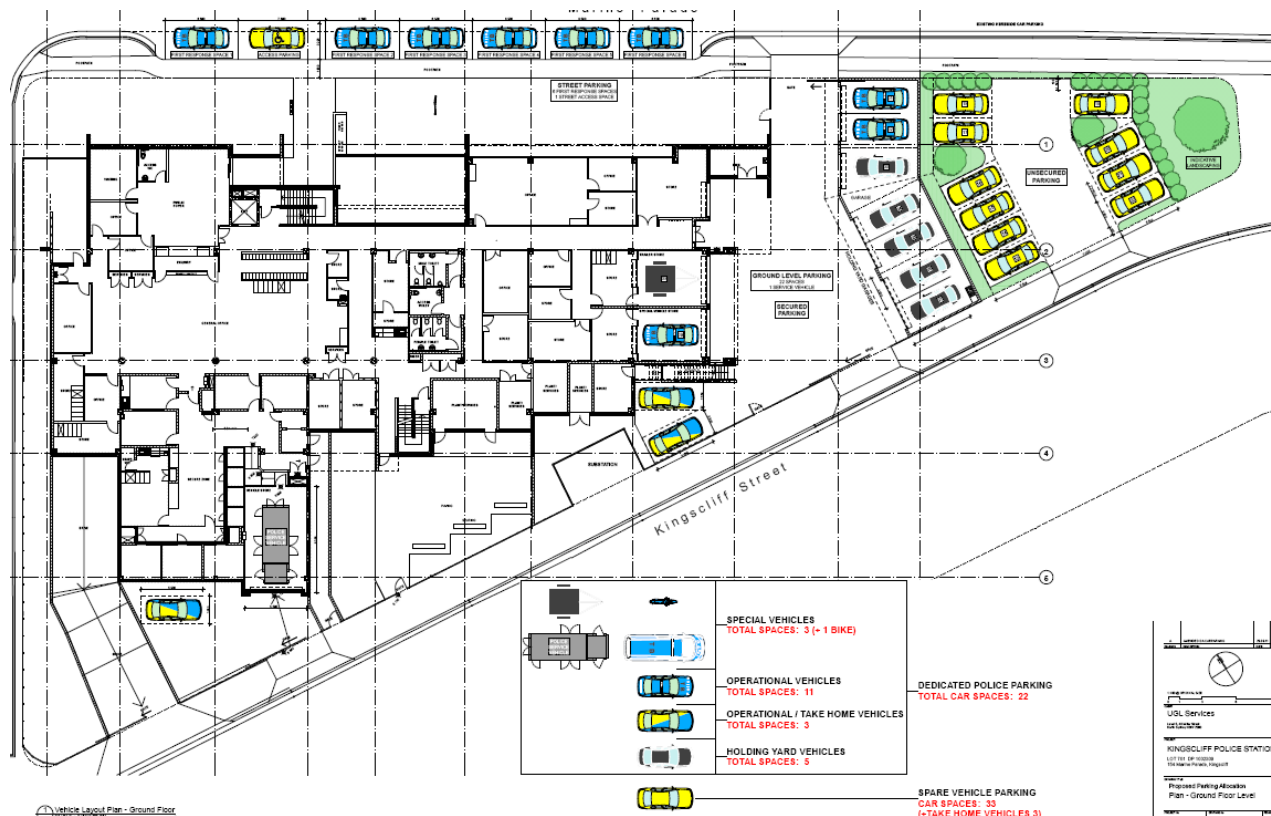


Figure 2 - Extract from Gardner Wetherill & Associates - Ground Floor Plan - Drawing Number 1210

The revised traffic report ('Transport and Traffic Assessment – August 2011 Parking Addendum', September 2011, prepared by TTM Group) argues for:

- A reduced DCP car parking requirement (using the office or public building rate) from 41 spaces to 36 spaces based on revised gross floor area. The gross floor area has been reduced from 1975m² to 1749m² by excluding the conference and training room, meals, nursing area, locker rooms and fitness rooms.
- A reduced 'practical demand' rate to 36, in light of the site's proximity to public transport facilities. That is, a reduction of 25% has been applied to the maximum number of staff in a shift based on the assumption that this amount of staff would not drive to work.

The report argues that if parking is calculated on the basis of the DCP rates, or on the practical staffing demand, the provision of 36 spaces are required, and have been provided on the site and the proposal is compliant with the requirements.

Assessment

Council officers have assessed the modified plans and the amended traffic report and make the following conclusions:

- Given that the applicant's 'practical demand' rate does not consider customer parking, the DCP rate for 'office' or 'public building' is the most appropriate rate as this rate incorporates car parking for both customers and staff.
- The modified gross floor area included in the traffic report of 1749m² is not accepted. Whilst it is agreed that ancillary staff facilities such as the meals area, nursing area, locker room and fitness room are ancillary staff facilities and can be excluded, it is not considered appropriate to exclude the conference and training room as it is considered that this area may be used by visitors to the site. The

amended gross floor area, as calculated by Council officers is 1874.80m² (comprised of 746m² on the ground floor and 1128.8m² first floor (1223m² - 94.2m²)). This equates to the requirement of 39 car parking spaces (including one space for the secure zone).

In terms of on-site car parking provided, the following spaces have been included:

- 21 'spare' spaces in the basement (assuming only one car in the disabled access parking space and excluding the operational vehicles in the car wash bay)
- 10 'spare' spaces and 3 'operational / take home vehicles' on the ground level.

It is therefore considered that 34 useable spaces for customers and staff are provided in the amended design, leaving a shortfall of 5 spaces.

The applicant has argued that 36 spaces are available on site, one of which is the disabled space in the indented area on Marine Parade, the other is in the basement in the disabled car parking space (allowing for a total of 2 in this space).

The parking provided on-street has not been modified and Council officer's assessment has not changed in this regard, that is "this replaces an existing parking zone for police vehicles, and there is no net increase in parking space provision as the indented parking bay maintains the same parallel parking arrangement".

Similarly, Council officers have only counted 1 space in the disabled space in the basement, assuming that it is being used as intended.

Whilst the proposed 10 car parking spaces will result in loss of green space on the south eastern corner of the site, the proposal includes landscaping to soften the appearance of this car park.

Shortfall

In considering the 5 space shortfall, Council officers do not consider it is appropriate to waive the requirement for the required amount given:

- A concession has already been applied for ESD;
- A private developer would be required to provide the full amount of parking; and
- The identified parking need in the surrounding locality.

In negotiations with the applicant, it has already been made clear to Council that the NSW Police Service would not be willing to offer any kind of cash in lieu for car parking shortfall.

Without complete redesign, it is not considered that additional car parking is available on the site. Therefore, Council officers have recommended that the applicant be required to provide angle parking on the eastern side of Marine Parade, for the length of the site. In addition, provision of a pedestrian refuge is considered necessary in Marine Parade, together with an additional street light.

Whilst provision of angle parking on the eastern side of Marine Parade is unlikely to result in any net increase to public car parking, formalisation of the parking area will allow for more efficient use.

Conditions proposed in this regard are deemed unacceptable by the applicant. The applicant requests further information on the shortfall and argues that the number of parking spaces provided in angle on-street parking would exceed any “alleged” shortfall. The applicant 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”.

Due to reporting deadlines, further engagement with the applicant was not possible.

Notwithstanding, without agreement from the applicant to make specific on-site car parking spaces available for staff and / or customers at all times, negotiation in relation to upgrades of public parking is superfluous.

AVAILABILITY OF ON-SITE CAR PARKING

The applicant has indicated previously that use of any car parking provided on the site will be at the sole discretion of the Local Area Commander.

Council officers have grave concerns with this approach because it effectively undermines the objective of Section A2 of the DCP by potentially rendering any on-site car parking unusable to visitors and staff. Compliance with the DCP cannot be achieved if on-site parking is unavailable.

Council officers have recommended a condition requiring a written statement from the applicant stating that specific car parking spaces are available at all times for customers and / or staff. The applicant does not accept this condition and again states that use of on-site car parking will be at the discretion of the Local Area Commander.

This provides no certainty that impact of car parking from the proposal will be managed appropriately.

OTHER OUTSTANDING ISSUES

Coastal Hazard Erosion

It was identified in the previous report that the subject site was affected by Draft Coastal Erosion Hazard 2100 line. As Council has not adopted a policy in this regard, current practice is to condition development to require a statement from the proponent acknowledging the risk. A condition of this nature is recommended and has been accepted by the applicant.

Flooding

It was identified in the previous assessment report that the site is below the Probable Maximum Flood (PMF) level. The proposal is defined as critical development and should be located on land above RL 7.9 metres AHD (the current ground floor of the proposal is RL 7 meters AHD). Whilst the applicant has not provided justification in this regard, it is recognised that the site is zoned for a Police Station and the proposal is replacing an existing facility. A relaxation of 0.9 metres is accepted on these grounds.

Building Scale and Character

Significant shortfall in car parking generally indicates development is oversized for the subject site. The building (combined with the nature of its operations) will result in a change to streetscape character, particularly given the context of the facility within a coastal village area. However, given the zoning of the site, it is not considered that this issue alone, is sufficient for refusal, particularly if car parking issues can be resolved.

Section 94 and 64 Contributions

It is noted that the applicant does not agree to conditions imposing section 64 or 94 contributions. Whilst it is agreed that a police station provides a community service, it is considered unreasonable that the State Government does not pay contributions for provision of roads, water and sewer supporting the facility which will service an area beyond the boundaries of the Tweed local government area.

ADDITIONAL SUBMISSIONS

Since the Panel meeting on 12 September 2011, Council has received three additional submissions.

Issues raised in these submissions are outlined and addressed below.

Issue	Council officer comment
Panel should have allowed further questions from the public during the public meeting.	This is a matter for the Panel Chair to decide.
Vehicles can remain in the holding yard for years and this area should not be used for staff parking.	This area has not been included in parking calculations, with the exception of two spaces indicated as 'operational / take-home' vehicles.
Traffic data should have been collected over a longer period of time and during peak seasons.	There is considered to be merit in this point. Council officers are aware that the area becomes highly congested during events and at different times of the year, as such, car parking requirements have been upheld in the officer assessment.
Public transport does not pass Marine Parade.	Noted.
The Commander stated that there may be three customers at the police counter at any one time, indicating a need for customer parking.	Council officers consider that customer parking should be provided, which is why the DCP rate has been adopted for assessment as it incorporates staff and customer requirements.
Limited public consultation by the police.	This is a matter for the State government.
The RTA site at Chinderah is a better location for the station and should be combined with other emergency services due to improved response times.	Strategic planning of police station location is outside the jurisdiction of Council.
The Tweed Heads Police Station has 'outgrown itself'.	This is a planning matter that is beyond the jurisdiction of Council assessment.
A suitable site is available for the police station in the Kings Forest development.	As above, the strategic planning of State police service location is beyond Council's

	jurisdiction although it is noted that other site options are available and should be explored given the constraints of the current site.
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OPTIONS:

- 1.The Joint Regional Planning Panel refers the application to the Minister with reasons why the proposal should be refused.
- 2.The Joint Regional Planning Panel approves the proposal with conditions which include the applicant's proposed modifications (detailed below).

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

In the event of a recommendation for refusal, section 89 of the EP&A Act states that the consent authority must not refuse a Crown development but must refer it to the Minister with reasons for the proposed determination.

In the event of a recommendation for approval, section 89 of the EP&A Act also states that conditions must not be imposed on a Crown development application without approval of the applicant or the Minister.

If the Panel refers an application to the Minister, the Panel must submit to the Minister:

- (a) a copy of the [development application](#), and
- (b) details of its proposed determination of the [development application](#), and
- (c) the reasons for the proposed determination, and
- (d) any relevant reports of another [public authority](#).

POLICY IMPLICATIONS:

N/A

CONCLUSION:

The development application for a new police station at Kingscliff has been deferred, allowing the applicant and Council officers to negotiate on car parking issues.

Whilst the applicant has increased the number of car parking spaces on the site, a shortfall of five spaces remains. To reduce the impact of car parking shortfall, Council officers recommended a condition requiring upgrade of the informal parking area on the eastern side of Marine Parade. The applicant has not accepted this condition.

Council officers also recommended conditions requiring a written statement confirming that specified on-site car parking spaces remain available for use by staff and / or customers at all times. The applicant has not accepted conditions in this regard, stating that for security and operational reasons, parking on-site will be at the discretion of the Local Area Commander.

Given the uncertainty of availability of on-site car parking spaces, Council officers do not consider that the proposal satisfies the DCP and cannot recommend approval of the proposal.

RECOMMENDATION:

That Development Application DA11/0257 to demolish the existing Police Station and construct a new two (2) storey Police Station (JRPP) at Lot 701 DP 1002309; Pearl Street KINGSCLIFF, be refused for the following reasons –

- The applicant has not agreed to conditions which would ensure compliance with 79C(1) (a) (iii) Development Control Plan (Section A2 – Site Access and Parking Code) by providing on-site car parking spaces which are available for use by staff and customers.
- 79C (1) (b) Likely impacts of the development – Without agreement to specific conditions, there is no certainty that the development will not have an adverse impact on the locality.
- 79C (1) (d) submissions – it is not considered that matters in the submissions have been adequately addressed if conditions are not agreed to by the applicant.

ATTACHMENT 1

DRAFT CONDITIONS

Applicant's response to proposed conditions is provided below each condition.

GENERAL

- 1 The development shall be completed in accordance with the Statement of Environmental Effects and the following plans prepared by Gardner Wetherill & Associates
 - Site Plan Drawing Number DA1001 Revision A dated 10.05.11
 - Plan Demolition Drawing Number DA1002 Revision A dated 10.05.11
 - Site Analysis Diagram Drawing Number DA1002 dated 10.05.11
 - Plan - Basement Level Drawing Number DA1110 Revision A dated 29.09.11
 - Plan - Ground Floor Level - Drawing Number DA1210 Revision A dated 29.09.11
 - Plan - First Floor Level Drawing Number DA1301 Revision B dated 25.07.11
 - Elevations - Sheet 1 - Drawing Number DA1500 Revision A dated 10.05.11
 - Elevations - Sheet 2 - Drawing Number DA1501 Revision A dated 10.05.11
 - Sections - Sheet 1 - Drawing Number DA1600 Revision A dated 10.05.11
 - Perspective Views - Drawing Number 1700 Revision A dated 10.05.11
 - Sun Study Diagram - Drawing Number DA1800 Revision A 10.05.11

except where varied by the conditions of this consent.

[GEN0005]

Accepted by the applicant.

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

[GEN0115]

Accepted by the applicant.

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

[GEN0125]

Accepted by the applicant.

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

[GEN0135]

Accepted by the applicant.

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

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

Applicant has requested that this condition be deleted as it is dealt with in condition 20 – Council officers agree.

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

[GEN0300]]

Accepted by the applicant.

- 7 In accordance with Section 109F(1) 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.

[GENNS01]

Accepted by the applicant.

- 8 A Subdivision Certificate application is required to be submitted, to ensure that appropriate land is dedicated for road widening, footpath relocation and relocation of services (if necessary), along the Marine Parade frontage.

Accepted by the applicant.

[GENNS02]

- 9 Detailed design of civil infrastructure works is required to be approved by the General Manager or his delegate. This includes road widening works along the Marine Parade frontage, construction of on-street angle parking, construction of a pedestrian refuge and street light, as well as sewer main infrastructure modification. Detailed design must be provided to the General Manager or his delegate for approval and works must be satisfactorily completed prior to the dedication of any road widening and completion of building works.
A separate Sec.138 application will still need to be submitted for construction of four (4) vehicular footpath crossings.

[GENNS03]

Applicant requests that Condition 9, 15, 20, 21, 42, 58, 59 and 63 are consolidated and clearly outlines the standards and specifications to be met in relation to the proposed road works – Agreed by Council officers – refer amended condition 9 A-E below.

- 10 Prior to commencement of works, the proponent shall provide a letter from owner of the site for Coastal hazard which states the following:

"As the owner /owners of the property at Lot 701 DP1002309, Pearl Street, we acknowledge Council's draft DCP25 "Coastal Hazard" and the NSW Department of Planning "NSW Coastal Planning Guideline Adapting to Sea Level Rise" August 2010.

Having regard to the above documents we understand that future coastal erosion has the potential to affect our property and we accept all risk and responsibility associated with the proposed development, including the extent to which we will engineer and construct the building to mitigate any future erosion effect."

Accepted by the applicant.

- 11 All signage is to comply with Councils Development Control Plan and shall comprise only of the building identification wall sign and a pole sign. The flag pole must not extend higher than the **front** roof of the building.

Minor wording amendment requested, accepted by Council and the applicant.

- 12 The applicant shall construct sealed angle parking in the road reserve on the eastern side of Marine Parade for the length of the site, as measured from the centre-line of Pearl Street to the centre line of Kingscliff Street. Such parking will provide appropriate line-marking and wheel stops in accordance with Australian Standard AS2890. Detailed design must be provided to the General Manager or his delegate for approval.

Not accepted by the applicant as follows: "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 area opposite the Police Station but this upgrade would be limited.

- 13 The ten car parking spaces provided on the site, marked 'unsecured parking' on drawing number DA1210 Revision A dated 29.09.11 must be available at all times for customers and no prohibitive parking signage is permitted. The applicant must provide signage at this location, indicating that car parking is available for customers. Pedestrian access to Marine Parade is to be maintained from the unsecured parking area. The proponent must submit a written statement stating that operation of the site will ensure compliance with this condition. Such statement must be provided prior to commencement of building works.

Not accepted by the applicant as follows: "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."

Council Officers will accept no sign in this location, however a statement is required as to comply with the DCP requirements, this parking area needs to be available for parking by staff or customers, at all times.

- 14 The car parking indicated as 'spare' in the basement on drawing number DA1110,

Revision A, dated 29.09.11 must be available to staff for parking at all times. The three car parking spaces marked as 'operational / take home vehicles' on drawing number DA1210 Revision A dated 29.09.11 must be available to staff at all times. The proponent must submit a written statement stating that operation of the site will ensure compliance with this condition. Such statement must be provided prior to commencement of building works.

This condition is not accepted by the applicant as follows: "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."

To comply with the DCP requirements, Council officers consider that these spaces should be available for staff at all times.

- 15 A vehicle slow-point incorporating a pedestrian refuge shall be constructed on Marine Parade accessing the on-street angled parking in accordance with relevant Australian Standards, including AS1158 for street lighting. Detailed design must be provided to the General Manager or his delegate for approval.

This is not accepted by the applicant.

[GENNS05]

16 **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, building works shall NOT commence unless all Section 94 Contributions have been paid and the Certifying Authority, or equivalent 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.

« Tweed Road Contribution Plan:

223.28 Trips @ \$861 per Trips \$192244

(\$782 base rate + \$79 indexation)

S94 Plan No. 4

Sector6_4

« West Kingscliff - Drainage:

0.027 HA @ \$58148 per HA \$1570

(\$2980.1 base rate + \$55167.9 indexation)

DCP Section B4

S94 Plan No. 7

[PCC0215/PSC0175]

The applicant does not agree to this condition, stating that: "the 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 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, building works shall **NOT** commence unless all Section 64 Contributions have been paid and the Certifying Authority or equivalent 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 DSP5: 7.528 ET @ \$11571 per ET \$87106.5

Sewer Kingscliff: 12.29 ET @ \$5560 per ET \$68332.4

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

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

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

[PCC0265/PSC0165]

The applicant does not agree to this condition, stating that: "the 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

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

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

The bond will be refunded, if not expended, when the Subdivision Certificate (to facilitate road widening dedication) is issued.

[PCC0275]

The applicant does not agree to this condition, stating that: "Council may rely on its rights to enforce the conditions of consent under the Environmental Planning and Assessment Act 1979."

Council officers agree that this condition can be deleted.

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

[PCC0865]

Accepted by the applicant.

- 20 The proponent shall submit plans and specifications for the following civil works and any associated subsurface overland flow and piped stormwater drainage structures, designed in accordance with Councils Development Design and Construction specifications.

URBAN ROAD

- § Construction of Marine Parade road widening, incorporating pavement widening, kerb and gutter relocation, concrete footpath relocation, and services relocation (if necessary).

The relocated footpath area is required to match the existing footpath width (minimum of 3.5m wide).

OTHER

- § The existing sewer main infrastructure traversing the site is to be removed, and a new sewer manhole is to be constructed at the end of this line, 1m inside the boundary of the Pearl Street frontage.

[PCC0875]

The applicant has requested that this condition, along with condition 5, 19, 20, 21, 42, 58, 59 and 63 are consolidated and other modifications are made. These are accepted by Council and a suggested alternative condition is provided in 9 A-9E below.

- 21 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: -

§ Construction of four (4) vehicular footpath crossings: three (3) in the Kingscliff Street frontage and one in the Marine Parade frontage.

§ Construction of concrete path paving 1.2m wide for both the Kingscliff Street and Pearl Street frontages. NOTE: For this work, the applicant has the option of including the path paving with the construction certificate 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
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

As above, the applicant has requested that this condition, along with condition 5, 19, 20, 21, 42, 58, 59 and 63 are consolidated and modifications are made. These are accepted by Council and a suggested alternative condition is provided in 9 A-9E below.

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

[PCC0935]

The applicant has accepted this condition.

- 23 Any sheet piling that utilises ground anchors that extend under public roads or land must not be used unless the applicant or owner enter into a contract regarding liability for the ground anchors and lodges an application under Section 138 of the Roads Act together with an application fee of \$10,000 and a bond of \$25,000 for each road frontage. This bond will be refunded upon the removal of the ground anchors. If the ground anchors are not removed prior to the occupation/use of the development, the bond shall be forfeited to Council.

[PCC0955]

The applicant does not accept this condition as all walls are well within 3 metres distance from any boundary and as such, no ground anchors protruding into public land will be required. Council officers suggest an alternative condition which states "No ground anchors are to protrude into public land."

- 24 Prior to approval of detailed civil infrastructure works the following detail in accordance with Councils Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority or equivalent for approval.

§ copies of compliance certificates relied upon

§ four (4) copies of detailed engineering plans and specifications, prepared in accordance with Development Design Specification D.13.. The detailed plans shall include but are not limited to the following:

- roadworks/furnishings
- stormwater drainage
- sewerage works
- sedimentation and erosion management plans
- location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure)

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

[PCC0985]

The applicant has accepted this condition.

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

§ detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.

§ 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*.

§ The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management.

§ Specific Requirements to be detailed including:

- ¿ Shake down area along the haul route immediately before the intersection with the road reserve.

[PCC1105]

The applicant has accepted this condition 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 it should be removed. Shake down treatment would only be required during construction and would be covered by the erosion and sediment management plan”. Council officers agree with this modification.

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

[PCC1125]

The applicant has accepted this condition.

27 Stormwater

- § Details of proposed stormwater disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority or equivalent, prior to commencement of building works. These details shall include likely landscaping within the overland flow paths.
- § Infiltration pits shall be located wholly within the subject allotment.
- § The infiltration rate for sizing infiltration devices shall be 3m per day:
 - Ø 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.
- § 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).
- § All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- § 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.
- § All infiltration devices are to be designed to allow for construction and operation vehicular loading.
- § All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

The applicant has accepted this condition 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 allows a higher rate may safely be infiltration 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." Council officers require further time to consider these modifications.

28 Works that involve any of the following:-

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

require separate approval 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]

The applicant has accepted this condition.

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

- § a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- § 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]

The applicant has accepted this condition.

30 The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be 200 l/s/ha. This can be achieved by On site stormwater detention (OSD) utilising above and or below ground storage, and in this instance, combined with infiltration devices. OSD devices including discharge control pits (DCP) are to comply with standards in the current version of The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook" except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire.

Details are to be submitted with the S68 stormwater application.

[PCC1165]

The applicant has accepted this condition.

31 Prior to commencement of works, an asbestos and heavy metal soil investigation report prepared by a suitably qualified person shall be submitted to Tweed Shire Council to the satisfaction of the General Manager or his delegated. In the event that contaminants are found in excess of health investigation levels a remediation action plan (RAP) is to be prepared and approved by Council's General Manager or Delegate. All works shall be conducted in accordance with the approved RAP, if required.

[PCCNS01]

The applicant has accepted this condition with the following revised wording: "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." Further time is required for Council officers to consider this modification.

- 32 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 are unnecessary and are to be deleted. 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. Details to be shown with the Sec.68 stormwater application.

[PCCNS02]

The applicant has accepted this condition with the following modification: "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 intended 100 mm 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 to be shown with the Sec.68 stormwater application." Further time is required for Council officers to consider this modification.

PRIOR TO COMMENCEMENT OF WORK

- 33 The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site 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]

The applicant has accepted this condition.

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

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

[PCW0025]

The applicant has accepted this condition.

- 35 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

The applicant has accepted this condition.

[PCW0245]

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

[PCW0665]

The applicant has not accepted this condition stating that it is not a valid, enforceable condition and is likely to fail the *Newbury Test*. Council officers consider that this condition can be deleted.

- 37 It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land or is likely to effect the integrity of the adjoining land, the person causing the excavation to be made must comply with the following:

§ The person must, at the person's own expense:

- ¿ preserve and protect the building / property from damage; and
- ¿ if necessary, underpin and support the building in an approved manner.

§ The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0765]

The applicant does not accept this condition stating that proposed excavation works do not impact other properties. Council officers do not consider necessary for this to be deleted.

- 38 Civil infrastructure work in accordance with a development consent must not be commenced until:

§ a construction certificate for the civil infrastructure work has been issued in accordance with Councils Development Construction Specification C101 by:

- ¿ the consent authority, or
- ¿ an accredited certifier, and

§ the person having the benefit of the development consent:

- ¿ has appointed a principal certifying authority,
- ¿ has appointed a Subdivision Works Accredited Certifier (SWAC) to assume the responsibility for certifying the compliance of the completed public infrastructure. The SWAC shall be accredited in accordance with Tweed Shire Council DCP Part A5 – Subdivision Manual, Appendix C with accreditation in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the SWAC shall possess

accreditation in the following categories:

C4: Accredited Certifier – Stormwater management facilities construction compliance

C6: Accredited Certifier – Subdivision road and drainage construction compliance

The SWAC shall provide documentary evidence to Council demonstrating current accreditation with the Building Professionals Board prior to commencement of works. Where the value of new public infrastructure is less than \$30,000 then the SWAC may be substituted for an Institute of Engineers Australia Chartered Professional Engineer (Civil College) with NPER registration.

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

[PCW0815]

The applicant has not accepted this condition stating that section 81A of the EP&A Act exempts Crown from building works. Council officers agree that this can be deleted.

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

[PCW0835]

The applicant has accepted this condition with the following revised wording: "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". Council officers agree with this change.

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

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]

The applicant has accepted this condition.

- 41 An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

The applicant has accepted this condition.

- 42 Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of a new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCW1170]

As above, the applicant requests that this condition is consolidated with others. Council officers have suggested a modification below.

- 43 Prior to the commencement of demolition works a demolition works plan shall be submitted to Tweed Shire Council to the satisfaction of the General Manager or his delegated.

[PCWNS01]

The applicant states that this condition is not applicable as the Act exempts the Crown from building work. Council officers agree and it can be deleted.

- 44 Prior to the removal of any concrete slab a pre-demolition testing report prepared by a suitably qualified person shall be submitted to Tweed Shire Council to the satisfaction of the General Manager or his delegate. Removal of the concrete slab is not permitted without the separate prior written approval of Tweed Shire Council. In the event that contaminants are found in excess of health investigation levels a remediation action plan (RAP) is to be prepared and approved by Council's General Manager or Delegate. All works shall be conducted in accordance with the approved RAP, if required.

[PCWNS02]

The applicant states that this condition is not required and should be deleted. Council officers require additional time to assess the proposed modification.

DURING CONSTRUCTION

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

[DUR0005]

The applicant agrees with this condition but notes that it is unnecessary.

- 46 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]

The applicant agrees with this condition.

- 47 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]

The applicant agrees with this condition but requests the following wording change: "All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment". Council requires further time to assess this modification.

- 48 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]

The applicant agrees with this condition but notes that it is unnecessary.

- 49 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]

The applicant accepts this condition.

- 50 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]

The applicant accepts this condition.

- 51 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.

The applicant accepts this condition.

- 52 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]

The applicant accepts this condition.

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

[DUR0815]

The applicant accepts this condition.

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

The applicant does not accept this condition and states that “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”. Council officers require additional time to assess this proposed modification.

[DUR0985]

- 55 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]

The applicant accepts this condition with the following revised wording: “The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles”. Council officers require additional time to assess this proposed modification.

- 56 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]

The applicant accepts this condition with revised wording which change the word “necessary” to “reasonable” stating that UGL and NSWPF are aware of their legal obligations in relation to pollution. This change is acceptable to Council officers.

- 57 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]

The applicant accepts this condition.

58 Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval and demonstrating.

§ That the pavement has been designed in accordance with Tweed Shire Councils Development Design Specification, D2.

§ That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.

§ That site fill areas have been compacted to the specified standard.

§ That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR1805]

As above, the applicant is requesting consolidation of this condition with others. Council officers have suggested a modification below.

59 During the relevant stages of road construction, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface demonstrating:

§ That the pavement layers have been compacted in accordance with Councils Development Design and Construction Specifications.

§ That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.

[DUR1825]

As above, the applicant is requesting consolidation of this condition with others. Council officers have suggested a modification below.

60 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]

The applicant accepts this condition.

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

Roadworks

- § Pre-construction commencement erosion and sedimentation control measures
- § Completion of earthworks
- § Excavation of subgrade
- § Pavement - sub-base
- § Pavement - pre kerb
- § Pavement - pre seal
- § Pathways, footways, bikeways - formwork/reinforcement
- § Final inspections - on maintenance
- § Off Maintenance inspection

Sewer Reticulation, Drainage

- § Excavation
- § Bedding
- § Laying/jointing
- § Manholes/pits
- § Backfilling
- § Permanent erosion and sedimentation control measures
- § Drainage channels
- § Final inspection - on maintenance
- § Off maintenance

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

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

[DUR1895]

The applicant accepts this condition.

- 62 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]

The applicant accepts this condition.

- 63 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]

As above, the applicant is requesting consolidation of this condition with others. Council officers have suggested a modification below.

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

[DUR2015]

The applicant accepts this condition.

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

[DUR2355]

The applicant accepts this condition.

- 66 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]

The applicant accepts this condition with the following modification in the last paragraph “This inspection program is to be maintained until the site is commissioned as a Police Station.” Council officers require further time to consider this modification.

- 67 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]

The applicant accepts this condition.

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

§ internal drainage, prior to slab preparation;

§ water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;

§ external drainage prior to backfilling.

§ completion of work and prior to occupation of the building.

[DUR2485]

The applicant accepts this condition with the following modification – delete the last bullet point as crown development is except from the requirement to obtain an occupation certificate. Council officers agree with this suggestion.

69 **Plumbing**

§ A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.

§ 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]

The applicant accepts this condition.

70 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]

The applicant accepts this condition.

71 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]

The applicant accepts this condition.

72 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]

The applicant accepts this condition.

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

[DUR2645]

The applicant accepts this condition with the following revision “The structure is to be sited at least one metre horizontally clear of sewer main on site. All footings and

slabs within the area of influence of the sewer main are to be designed by a 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." This modification is accepted by Council officers.

74 All works shall be conducted in accordance with the approved demolition works plan.

[DURNS01]

The applicant does not accept this condition as it is not applicable. Council officers agree that it can be deleted.

75 Prior to issue of an occupation certificate validation reporting prepared by a suitably qualified person shall be submitted to Tweed Shire Council to the satisfaction of the General Manager or his delegated, if required by an approved remediation action plan.

[POCNS01]

The applicant accepts this condition subject to the following amendment: "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." Council officers agree with this modification.

76 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. Lighting should not result in unreasonable impact to neighbours. Operation of the police station should not allow for unnecessary use of sirens and limit use of sirens around the site.

[USE0125]

The applicant accepts this condition subject to the following amendment: "The use to be conducted so as to not cause disruption to the amenity of the locality, particularly by way of emission of light, noise, dust and odours or the like." Council officers agree with this modification.

77 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]

The applicant accepts this condition if the wording is changed to read "treated or shielded where considered reasonably necessary to the satisfaction of the General Manager." Council officers agree with this modification.

78 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]

The applicant does not consider that this condition is required given the suggestion to

change condition 76. Council officers agree with this modification.

- 79 The servicing of waste facilities shall be limited to between the hours of 7am to 6pm Monday to Saturday.

[USE0285]

The applicant accepts this condition.

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

[PSC0005]

The applicant accepts this condition.

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

The bond shall be based on 5% of the value of the works (minimum as tabled in Council's fees and charges current at the time of payment) which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

The applicant does not accept this condition and states that "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. Council officers require more time to consider this modification.

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

[PSC0725]

The applicant accepts this condition subject to the following amendment: Delete the second sentence starting with "Any work carried out by Council" as per comments above. Council officers agree with this modification.

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

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

- § all drainage lines, sewer lines, services and structures are wholly contained within the relevant easement created by the subdivision;

§ the plans accurately reflect the Work as Executed.

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

[PSC0735]

The applicant accepts this condition.

- 84 A Subdivision Certificate will not be issued by the General Manager until such time as all new civil infrastructure works have been satisfactorily completed.

[PSC0825]

The applicant considers that this condition is unnecessary as it is a repeat of condition 80 and should be deleted. Council officers agree with this modification.

- 85 The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:

§ Easements for sewer, water supply and drainage over **ALL** public services/infrastructure on private property.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0835]

The applicant considers that this condition is unnecessary and should be deleted. Council officers disagree with this modification as the road widening may result in relocation of water and sewer into the crown property.

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

[PSC0855]

The applicant accepts this condition.

- 87 Prior to registration of the plan of subdivision, a **Subdivision Certificate** shall be obtained.

The following information must accompany an application:

§ original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.

§ all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

The applicant accepts this condition.

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

- § Compliance Certificate - Roads
- § Compliance Certificate - Sewerage Reticulation
- § Compliance Certificate - Drainage

Note:

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

[PSC0915]

The applicant accepts this condition.

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

[PSC0925]

The applicant does not accept this condition as above relating to the defects liability period.

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

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

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

[PSC1065]

The applicant does not accept this condition as above relating to the defects liability period.

- 9A 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 plans and specifications for the following civil works and any associated subsurface overland flow and piped stormwater drainage structures, designed in accordance with Councils Development Design and Construction specifications.

URBAN ROAD

- § Construction of Marine Parade road widening on the western side of Marine Parade in front of the proposed Police Station to allow for seven car parking spaces as indicated on the 'Ground Floor Level' plan prepared by Gardner Wetherill and Associates, drawing number 1210, revision A. This should incorporate pavement widening, kerb and gutter relocation, concrete footpath relocation, and services relocation (if necessary).

The relocated footpath area is required to match the existing footpath width.

- § *Construction of on-street angle parking in the road reserve on the eastern side of Marine Parade for the length of the site, as measured from the centre-line of Pearl Street to the centre line of Kingscliff Street. Such parking will provide appropriate line-marking and wheel stops in accordance with Australian Standard AS2890. Detailed design must be provided to the General Manager or his delegate for approval.*
- § Construction of vehicle slow-point incorporating a pedestrian refuge on Marine Parade opposite the on-street angled parking required on the eastern side of Marine Parade, in accordance with relevant Australian Standards, including AS1158 for street lightening.
- § Construction of five vehicular footpath crossings: four in the Kingscliff Street frontage and one in the Marine Parade frontage.
- § Construction of concrete path paving 1.2m wide for both the Kingscliff Street and Pearl Street frontages.

OTHER

- § The existing sewer main infrastructure traversing the site is to be removed, and a new sewer manhole is to be constructed at the end of this line, 1m inside the boundary of the Pearl Street frontage.

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

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

- 9B Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.
- 9C Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval and demonstrating.

- § That the pavement has been designed in accordance with Tweed Shire Councils Development Design Specification, D2.
- § That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.
- § That site fill areas have been compacted to the specified standard.
- § That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR1805]

9D During the relevant stages of road construction, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface demonstrating:

- § That the pavement layers have been compacted in accordance with Councils Development Design and Construction Specifications.
- § That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.

9E 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]