

Minutes - Meeting of Tweed Shire Council

IN ATTENDANCE

Councillors W J Polglase (Mayor), L F Beck, M R Boyd, R D Brinsmead, B J Carroll, G Davidson (Deputy Mayor), H James, G J Lawrie, B M Luff, W M Marshall, P C P Youngblutt.

Also present were Dr John Griffin (General Manager), Mr Mike Rayner (Director Engineering Services), Mr David Broyd (Director Development Services), Mr Don Buckley (Director Environment & Community Services), Mr Ian Carpenter (Director Corporate Services), Mr Brian Donaghy (Manager Administration Services/Public Officer) and Mrs Meredith Smith (Minutes Secretary).

Cr Luff was not present at the commencement of the meeting.

The meeting opened with a Prayer by Council's Chaplain, Reverend Ian Hartland.

"Jesus said:

"I am the light of the world. Whoever follows me will never walk in darkness, but will have the light of life."

(John 8:12)

Almighty God, You bring light into the darkness of our world. We humbly acknowledge our need of You and our dependence upon You. Shed Your light upon us and grant us wisdom, grace and integrity in all that we do. Save us from presumption and prejudice. Enable us to make decisions which are just and fair and to faithfully represent the residents of our Shire.

Help us in our relationships with one another. Enable us to treat each other with respect and to be gracious with one another. We pray for our Mayor, Warren. We ask for wisdom and grace as he chairs the meeting and as he gives leadership within our Shire.

Heavenly Father, guide us through this day, let Your peace be upon us and bring us to the end of this day with a sense of achievement and fulfilment in all that we have done; for we ask it in the Name of Jesus Christ our Lord. ... Amen."

CONFIRMATION OF MINUTES

481

Cr Boyd

Cr Davidson

RESOLVED that the Minutes of the Ordinary Meeting held 21 November 2001 be confirmed as an accurate record of the proceedings of that Meeting.

Voting - Unanimous

ABSENT

Nil.

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DECLARATION OF INTEREST

Cr Boyd

Declared an interest in Item No 15. The nature of the interest is that Cr Boyd is a neighbour of the property owner the subject of the report.

SUSPENSION OF STANDING ORDERS

482

Cr Polglase

Cr Beck

RESOLVED that standing orders be suspended to consider a Special Mayoral Minute.

Voting For

Cr Polglase
Cr Beck
Cr Boyd
Cr Brinsmead
Cr Carroll
Cr Davidson
Cr Lawrie
Cr Marshall
Cr Youngblutt

Voting Against

Cr James

COMMITTEE OF THE WHOLE

483

Cr Beck

Cr Youngblutt

RESOLVED that Council resolves itself into a Confidential Committee of the Whole.

Voting For

Cr Polglase
Cr Beck
Cr Boyd
Cr Brinsmead
Cr Carroll
Cr Davidson
Cr Lawrie
Cr Marshall
Cr Youngblutt

Voting Against

Cr James

ATTENDANCE AT MEETING

Cr Luff attended the meeting at 3.29pm.

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RESUMPTION OF STANDING ORDERS

484

Cr Lawrie

Cr Marshall

RESOLVED that Standing Orders be resumed.

Voting - Unanimous

ITEMS TO BE MOVED TO OR FROM CONFIDENTIAL

Nil.

SCHEDULE OF OUTSTANDING RESOLUTIONS

485

Cr Boyd

Cr Davidson

RESOLVED that this report be received and noted.

Voting - Unanimous

MAYORAL MINUTE

1. Casuarina Beach

Casuarina Beach Development

This item was received and noted.

2. Citizenship Ceremony

Citizenship

This item was received and noted.

3. Self-Funded Independent Retirees Association

Residents & Ratepayers Association

This item was received and noted.

4. Murwillumbah Museum

Museums/Historical Society; 4510.70

This item was received and noted.

5. 5. Latitude 28 Project

DA4040/100 Pt1

This item was received and noted.

6. Tweed Heads Chamber of Commerce

Street Scaping - Tweed Heads

This item was received and noted.

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7. Opening of the Twin Towns Millenium Tower

DA4030/3580 Pt5

This item was received and noted.

8. Local Government – Excellence in Environment Awards

Civic Awards

This item was received and noted.

8a. Awards – Energy Smart House

Energy Efficient Housing; Civic Awards

The Mayor advised of his attendance with the Director Environment and Community Services at the Awards night for Local Government Excellence in the Environment where Tweed Shire Council was an award recipient in the following categories:-

- A special commendation for an outstanding environment achievement for Council's Smart House.
- A highly commended under the Local Government Excellence in the Environment Awards for water efficiency in the Smart House.
- The Local Government and Shires Association award for outstanding development of Sustainable Management Practices in Local Government.
- An award for the Director of Development Services, David Broyd, for his outstanding contribution to the development of Sustainable Management Practices in Local Government.

Council congratulated David Broyd on his Award.

Adoption of Mayoral Minute

486

Cr Polglase

RESOLVED that the Mayoral Minute as presented be adopted.

Voting - Unanimous

ITEMS DEFERRED

6. Councillor Legal Costs

Notice of Motion - Cr Youngblutt; Legal Costs; Councillors - General

Cr Lawrie

Cr Youngblutt

PROPOSED that any legal costs properly and reasonably incurred by a Councillor in respect to the Bulford enquiry be reimbursed by the Tweed Shire Council as the enquiry was supported by the full Council, provided that the enquiry does not result in a finding by a Court of Law substantially adverse to the Councillor.

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487

Cr Beck

Cr Brinsmead

RESOLVED that an extension of 5 minutes be granted to Cr Lawrie.

Voting - Unanimous

488

Cr James

Cr Carroll

RESOLVED that an extension of 5 minutes be granted to Cr Boyd.

Voting For

Cr Polglase
Cr Boyd
Cr Carroll
Cr Davidson
Cr James
Cr Lawrie
Cr Luff

Voting Against

Cr Beck
Cr Brinsmead
Cr Marshall
Cr Youngblutt

The Motion was **Lost**

Voting For

Cr Beck
Cr Brinsmead
Cr Lawrie
Cr Marshall
Cr Youngblutt

Voting Against

Cr Polglase
Cr Boyd
Cr Carroll
Cr Davidson
Cr James
Cr Luff

SUSPENSION OF STANDING ORDERS

489

Cr Beck

Cr Youngblutt

RESOLVED that standing orders be suspended to deal with Item 19 of the Agenda.

Voting - Unanimous

19. **Proposed Dwelling Lot 1 DP348293, 24 Tumbulgum Road Murwillumbah**

DA5570/565 Pt1

490

Cr Beck

Cr Davidson

RESOLVED that Development Application 0821/2001DA for demolition of an existing weatherboard shed and the erection of a new two (2) storey dwelling at Lot 1 DP348293,

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24 Tumbulgum Road, Murwillumbah be approved by Council subject to the following conditions:

GENERAL

1. The development shall be completed in general accordance with Plans Nos Sheet WD01 Project 0109 prepared by Lyons Architects and dated July 2001, except where varied by these conditions.
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.
3. 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 to the satisfaction of the Director of Engineering Services prior to any use or occupation of the building.
4. 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.
5. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
 - a. footings, prior to pouring of concrete
 - b. slab, prior to pouring of concrete
 - c. frame prior to the erection of brick work or any wall sheeting
 - d. final inspection prior to occupation of the building
6. Site plan indicates that minimum boundary clearances are proposed. A certificate is to be submitted by a registered surveyor to confirm that all boundary setbacks are being observed in accordance with the approved plans. This certificate is to be submitted to the Principal Certifying Authority upon commencement of exterior walls.
7. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos.
8. Demolition of building existing on site is to be carried out in accordance with the provisions of Australian Standard AS 2601-1991 "The Demolition of Structures", the relevant requirements of the WorkCover Authority and the Works Statement to Demolish a Structure which was submitted to Council on 29 November 2001.
9. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:
 - (i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and

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

Note: Underslab chemical treatment will not be permitted as the only method of treatment unless the area can be retreated without major disruption to the building.

10. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
 - i. All required erosion and sedimentation control devices have been installed and are operational.
 - ii. Required toilet facilities have been provided on the site.
 - iii. A sign has been erected on the site identifying:
 - Lot number
 - Builder
 - Phone number of builder or person responsible for site.
 - iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
 - v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000.
11. The glazier is to supply the PCA with certification that all glazing complies with AS 1288 and AS2047 of the Building Code of Australia.
12. Manufacturers certification is to be provided to the PCA from the Roof Truss manufacturer to certify the roof truss design.
13. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the

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approved plans and specifications, conditions of Consent and the relevant provisions of the Building Code of Australia.

14. Ceiling heights to the Upper and Lower floors shall be a maximum of 2.4 metres, with an amended plan submitted to the Principal Certifying Authority, prior to the issue of the Construction Certificate.
15. The setback from the wall to the Western property boundary shall be a minimum 1.215 metres, with an amended plan submitted to the Principal Certifying Authority, prior to the issue of the Construction Certificate.
16. An automatic fire detection and alarm system, designed to ensure the occupants are given adequate warning so they can evacuate the building in an emergency, must be installed in Class 1a building, or dwelling or dual occupancy and within sole occupancy units in a townhouse.

Smoke detection and alarm systems must be installed in accordance with Part 3.7.2.3 of the Building Code of Australia and must comply with Australian Standard AS 3786.

Smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building.

Smoke alarms must be installed on or near the ceiling in -

- (a) any storey containing bedrooms -
 - (i) between each part of the dwelling containing bedrooms and the remainder of the dwelling; and
 - (ii) where bedrooms are served by a hallway, in that hallway; and
- (b) any other storey not containing a bedroom.

A Certificate of Compliance is to be submitted to the PCA prepared by the licensed Electrical Contractor certifying that the installation complies with the above, prior to occupation of the building.

17. Development approval only is granted for a driveway from the development to connect with the adjacent public road.

You will be advised separately of the determination of your application to Council for consent under Section 138 of the Roads Act 1993 to construct or modify a driveway on the public road adjacent to your property

You must receive this separate written consent from Council under Section 138 of the Roads Act 1993 prior to the issue of a construction certificate which includes any works on the adjacent public road and prior to any works taking place on the adjacent public road.

18. 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 200l/s/ha. This may be achieved by on site detention (OSD), on site retention or a combination of both. Detention

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storage may be incorporated into surface depressions in landscaping or car parking areas. The maximum water depth under design conditions in vehicle parking areas shall be 200mm. OSD devices including discharge control pits (DCP) are to comply with standards in The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook, Second Edition 1994") except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire. All these works and the connection to Councils drainage system shall be constructed in accordance with design calculations, plans and specifications to be submitted to Council and approved by the Director of Engineering Services prior to the issue of the Construction Certificate. The discharge point shall be at the existing kerb located on the south side of Sunnyside Lane.

19. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
20. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays.
21. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

22. All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Councils Energy Smart Housing Policy (DCP39). In order to comply with DCP39 consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass, zoning, and hot water supply.
23. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
 - a internal drainage, prior to slab preparation;
 - b water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - c external drainage prior to backfilling.
 - d. completion of work.
24. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.

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- B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
25. Dry floor wastes shall not discharge over doors or windows or in any position where they cause a nuisance.
26. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.
27. The Council approved wet area flashing installer is to supply to the Principal Certifying Authority certification that all wet area flashings have been installed in accordance with the Manufacturer's Specifications, detailing the rooms or areas involved and the date of installation. **Note:** Only Council approved installers may carry out this work and reference must be made to Council to confirm that such installers are Council approved.
28. Yard 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.
29. 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:-
- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50⁰C 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.

Windows

30. • Windows numbered 7, 15 & 16 to the West elevation shall be obscure glazing or otherwise treated to the satisfaction of Council's Director of Environment & Community Services.
- Window 12 to the East elevation shall be deleted and relocated to the South elevation.
 - Window 13 to the East elevation shall be treated with obscure glazing, have a minimum sill height of 1500mm above floor level and reduced in size to ASW12-18.
 - Window 10 shall be fitted with obscure glazing, have a minimum sill height of 1500mm and be amended in size to ASW6-9.
 - An amended plan detailing these modification shall be submitted to and approved by the Principal Certifying Authority, prior to the issue of the Construction Certificate.

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Voting For

Cr Polglase
Cr Beck
Cr Boyd
Cr Brinsmead
Cr Davidson
Cr Lawrie
Cr Marshall

Voting Against

Cr Carroll
Cr James
Cr Luff
Cr Youngblutt

RESUMPTION OF STANDING ORDERS

491

Cr Boyd

Cr Luff

RESOLVED that Standing Orders be resumed.

Voting - Unanimous

REPORTS THROUGH GENERAL MANAGER

REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

1. Minor Zone Amendment - Jones Road, Wooyung

GT1/LEP/2000/24 Pt1

492

Cr Boyd

Cr Luff

RESOLVED that Council:-

1. Pursuant to Section 54 of the Environmental Planning & Assessment Act 1979 prepares a draft Local Environmental Plan to rezone part of Jones Road (Figure 1) not included in the Billinudgel Nature Reserve from 8(a) National Parks/Nature Reserve Zone to 'unzoned land'.
2. Advises the Department of Urban Affairs and Planning that Council does not consider an Environmental Study is required.
3. Exhibits the draft Plan in accordance with 'Best Practice Guidelines – LEPs and Council Land' published by the Department of Urban Affairs & Planning.

Voting - Unanimous

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2. **Proposed Residential Subdivision (11 Allotments) Comprising Stage 4 The Outlook, Koala Beach at Lot 903 DP 1017348 Bottlebrush Drive, Pottsville DA4917/235 Pt4**

493

Cr Boyd

Cr Davidson

RESOLVED that Development Application 0655/2001DA for a residential subdivision comprising 11 lots at Lot 903 DP1017348 Bottlebrush Drive, Pottsville (Stage 4 – Koala Beach) be approved subject to the following conditions:-

PRE-REQUISITES – CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

General

1. A detailed plan of landscaping for the proposed Public Reserve is to be submitted and approved by Council's Director, Development Services prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans prior to the issue of a Subdivision Certificate. The plan shall ensure access for bush fire fighting and maintenance vehicles is available.
2. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted for approval by Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.
3. **Prior** to the commencement of work the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-
 - a. Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
 - b. AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.

Contributions

4. (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 79H of the Environmental Planning and Assessment Regulations, 1994, a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

Stage 1

- a. Tweed Road Contribution Plan: \$3,950.00
S94 Plan No. 4 (Version 4.0) 1 lot @ \$3,950.00
(Koala Beach - Residential)
- b. Street Trees: 1 lot @ \$42.90 \$42.90
S94 Plan No. 6
- c. Shirewide Library Facilities: 1 lot @ \$300.00 \$300.00
S94 Plan No. 11
- d. Bus Shelters: 1 lot @ \$23.00 \$23.00
S94 Plan No. 12
- e. Eviron Cemetery/Crematorium Facilities: \$126.00
1 lot @ \$126.00
S94 Plan No. 13
- f. Community Facilities (Tweed Coast) \$584.00
(South Coast) 1 lot @ \$584.00
S94 Plan No. 15
- g. Emergency Facilities (Surf Lifesaving) \$201.00
1 lot @ \$201.00
S94 Plan No. 16
- h. Extensions to Council Administration Offices
& Technical Support Facilities \$344.81
1 lot @ \$344.81
S94 Plan No. 18
- i. Cycleways 1 lot @ \$160.00 \$160.00

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S94 Plan No. 22

Stage 2

- a. Tweed Road Contribution Plan: \$39,500.00
S94 Plan No. 4 (Version 4.0) 10 lots @ \$3,950.00
(Koala Beach - Residential)
- b. Open Space (Structured): 10 lots @ \$519.00 \$5,190.00
S94 Plan No. 5
- c. Open Space (Casual): 10 lots @ \$235.00 \$2,350.00
S94 Plan No. 5
- d. Street Trees: 10 lots @ \$42.90 \$429.00
S94 Plan No. 6
- e. Shirewide Library Facilities: 10 lots @ \$300.00 \$3,000.00
S94 Plan No. 11
- f. Bus Shelters: 10 lots @ \$23.00 \$230.00
S94 Plan No. 12
- g. Eviron Cemetery/Crematorium Facilities: \$1,260.00
10 lots @ \$126.00
S94 Plan No. 13
- h. Community Facilities (Tweed Coast) \$5,840.00
(South Coast) 10 lots @ \$584.00
S94 Plan No. 15
- i. Emergency Facilities (Surf Lifesaving) \$2,010.00
10 lots @ \$201.00
S94 Plan No. 16
- j. Extensions to Council Administration Offices
& Technical Support Facilities \$3,448.10
10 lots @ \$344.81
S94 Plan No. 18

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k. Cycleways	10 lots @ \$160.00	\$1,600.00
S94 Plan No. 22		

5. A **certificate of compliance** (CC) under Part 3 Division 2 of the Water Supply Authorities Act 1987 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 79H of the Environmental Planning and Assessment Regulations, 1994, a Subdivision Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Stage 1

Water:	1 lots @ \$3,840.00	\$3,840.00
Sewer:	1 lots @ \$3,215.00	\$3,215.00

Stage 2

Water:	10 lots @ \$3,840.00	\$38,400.00
Sewer:	10 lots @ \$3,215.00	\$32,150.00

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

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

Further Approvals

6. Prior to commencement of work pursuant to this consent a **Construction Certificate** shall be obtained for the works proposed and required by this consent.

The following information must accompany applications for a construction certificate for subdivision work.

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(i) **Subdivision Work**

In the case of an application for a construction certificate for **subdivision work** required by this consent:

- a) copies of compliance certificates relied upon
- b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
 - earthworks
 - roadworks
 - road pavement
 - road furnishings
 - stormwater drainage
 - water supply works
 - sewerage works
 - landscaping works
 - sedimentation and erosion management plans
 - location of all service conduits (water, sewer, Northpower and Telstra)
 - the approved Traffic Control Plan
 - the relevant maintenance manuals (eg. G.P.T's, water pump station)

Where the proposed subdivision work involves a modification to previously approved plans the plans must be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the modification.

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.

7. Subdivision work in accordance with a development consent must not be commenced until:-
 - (a) a construction certificate for the subdivision work has been issued by:
 - (i) the consent authority, or
 - (ii) an accredited certifier, and
 - (b) the person having the benefit of the development consent:
 - (i) has appointed a principal certifying authority, and

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- (ii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and
 - (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.
- 8. Prior** to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000).

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 Director, Development Services.

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

Drainage/Flooding

9. All fill is to be graded at 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted with the Construction Certificate application. Drainage must be installed and operational prior to commencement of any work.

GENERAL

- 10. The development shall be completed in general accordance with Figures 1 to 10 prepared by Cardno MBK, which are included in the Development Layout and Engineering Report and dated May 2001, except where varied by these conditions.
- 11. The public reserve lots identified in the application are to be dedicated to Council.
- 12. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.
- 13. No soil, sand, gravel, clay or other material shall be disposed of off the site.
- 14. 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 to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- 15. The subdivision is to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual.
- 16. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of Development Consent No 0655/2001DA have been complied with.

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17. 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 the following:
1. Easements for sewer, water supply and drainage over **ALL** services on private property.
 2. Right of Way
 3. Restriction on use preventing obstruction to any drainage depression below the 1:100 year flood level.
 4. Easement for stormwater drainage and access, benefiting Council, is to be provided along the Stage 4 outfall drainage pipeline and access track and from the common stormwater drainage outfall to a lawful point of discharge, being the downstream defined natural watercourse.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

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

18. The submission of a plan for the approval of Council identifying a building envelope (with minimum dimensions of 10m by 15m) for each of the allotments, prior to the release of a Construction Certificate. The plan is to illustrate the location of the building envelopes in relation to the following constraints:
- Restriction on use for Habitat Management (Bat Buffer Area).
 - Restriction on use for Bush Fire Management.
 - Koala food trees.
 - Six (6) metre setback from road frontage.
 - 1:100 year flood level of natural watercourses (and relocated depression).

The approved plan is to be reflected in the creation of a restriction as user under Section 88B of the Conveyancing Act. The restriction as to user shall require all dwelling houses to be constructed within the approved building envelope, unless otherwise approved by Council, and Council shall be the sole authority to vary the instrument. The wording of the restriction as to user is to be submitted to Council for approval prior to the release of the Subdivision Certificate.

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19. 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 1742-1991 (Manual for 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.
20. Prior to the issue of a Subdivision Certificate, Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council.
21. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director, Development Services. The sign is to remain in place until the Subdivision Certificate is issued.
22. Where new state survey marks and/or permanent marks are placed, a copy of the locality sketch relating to the marks shall be submitted with the final subdivision certificate application.
23. All retaining walls in excess of 1.0 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.
24. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the Director, Development Services **PRIOR** to the issue of a Subdivision Certificate. 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.
25. All traffic control devices, where proposed, shall be accurately notated on a plan, which shall be lodged with the Roads and Traffic Authority for official approval and recording.
26. Dogs, cats and other domestic animals are prohibited from entering this locality by a covenant applying to this land.

All persons associated with the development of this site are prohibited from permitting any such domestic animals to enter this subdivision locality.

Please note that this prohibition also applies to all contractors, sub-contractors and other trades persons accessing this site.
27. No retaining walls or similar structures are to be constructed over Council's sewer main.
28. In accordance with Section 109F(i) of the Environmental Planning & 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

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(or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment.

FURTHER APPROVALS

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

(i) 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 of \$118 per lot.
- relevant development consent or complying development certificate
- detailed subdivision engineering plans endorsed with a construction certificate (where applicable)
- for a deferred commencement consent evidence that the applicant has satisfied the consent authority on all matters which must be satisfied before the consent can operate
- evidence that the applicant has complied with all conditions of consent, that it is required to comply with before a subdivision certificate can be issued (where applicable)
- a certificate of compliance from the relevant water supply authority (where applicable)
- if a subdivision is the subject of an order of the Land and Environment Court under section 40 of the Land and Environment Court Act 1979 evidence that required drainage easements have been acquired by the relevant council
- for subdivision involving subdivision works evidence that:
 - the work has been completed, or
 - agreement reached with the relevant consent authority regarding payment of the cost of work or as to the time for carrying out the work, or
 - security given to the consent authority with respect to the completion of the work
- Work as Executed Plans for **ALL** works

(ii) Documentary evidence that **all** matters contained in Section 109J of the Act have been complied with.

(iii) Written evidence from Council that the proposed road/street names have been approved.

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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.

30. 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:-

- (i) Compliance Certificate - Roads
- (ii) Compliance Certificate - Water Reticulation
- (iii) Compliance Certificate - Sewerage Reticulation
- (iv) Compliance Certificate - Drainage

Note: 1. Where Council is requested to issue compliance certificates, applications for such certificates must be accompanied by documentary evidence from the Developers Supervising Consulting Engineer 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, DCP16 - Subdivision Manual and good Engineering Practice.

2. Where Council is requested to issue the construction certificate all compliance certificates and a Subdivision Certificate, Council will carry out the following inspections as deemed necessary by Council based on the rates contained in Council's current Fees and Charges:-

Roadworks

- a. Pre-construction commencement erosion and sedimentation control measures
- b. Completion of earthworks
- c. Excavation of subgrade
- d. Pavement - sub-base
- e. Pavement - pre kerb
- f. Pavement - pre seal
- g. Pathways, footways, bikeways - formwork/reinforcement
- h. Bush fire zone access tracks
- i. Final inspections - on maintenance
- j. Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

- a. Excavation

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

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

- 3. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Supply Authorities Act, 1987 to be certified by an "accredited certifier".

- 31. Prior to the issue of a **Subdivision Certificate**, Works as Executed Plans shall be submitted in accordance with the provisions of DCP16 - Subdivisions Manual.

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

- (i) all drainage lines, sewer lines and structures are wholly contained within the drainage easement created by the subdivision;
- (ii) 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 plans.

- 32. 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 which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued and will be refunded following the remedying of any defects arising within the 6 month period.

- 33. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.

- a. That the pavement has been designed and constructed in accordance with subgrade analysis as per Austroads Pavement Design, A Guide to the Structural Design of Road Pavements.

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- b. That the pavement materials used comply with the specifications in RTA Form Q3051 (June 1998)
 - c. That the pavement layers have been compacted to RTA specifications.
 - d. That site fill areas have been compacted to the specified standard.
 - e. That supervision of Bulk Earthworks has been to Level 1 frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.
 - f. That pavement testing has been completed in accordance with Table 8.1 of AS 3798-1996.
34. All lots must be graded and trimmed to prevent the ponding of surface water. Additionally, all lots must be adequately vegetated and action must be taken to prevent erosion from wind and/or water to the satisfaction of the Director, Development Services.
35. The Construction Certificate application shall include a provision for pavement design. The final design shall be approved by Council OR an accredited certifier prior to the placement of any road pavement material.

ROADS/STREETS

36. Provision of adequate vehicular access in accordance with Council's "Access to Property" pamphlet.
37. All proposed road/streets, drainage and associated works within the subdivision shall be designed and constructed in accordance with the development consent plans referred to in Condition 10 **AND** the relevant provision of DCP No. 16 - Subdivisions Manual, except where varied by the conditions of this consent.
38. The Engineering Plans and specifications to accompany the Construction Certificate application shall provide for:-
- i. Construct a Koala Crossing adjacent to the proposed Koala corridor including signage and lighting.
 - ii. Construction of a stormwater drainage system that will convey all waters through the site to a legal point of discharge. The sub surface and overland drainage systems shall convey the respective flows from minor and major storm events. Clearly defined upstream catchment areas and supporting stormwater calculations shall accompany the engineering design plans. Where drainage from the proposed subdivision is to be connected to existing stormwater systems, calculations verifying existing system capacity are to be included.
 - iii. Construct a formed access track/s for bush fire fighting and stormwater maintenance vehicles.

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- iv. Calculations showing the extent of inundations, if any, for the 1:100 year ARI storm to lots 459, 460, 461 and 457 due to natural watercourses.
 - v. Construction of sealed driveways to the property boundaries for lots 457 and 451.
 - vi. Details of relocated depression around lot 459 including remediation measures.
 - vii. Extension of existing scour protection measures at the discharge headwall/s to take account of the extra flow rates generated from this subdivision.
39. In accordance with Development Control Plan No. 16 a footpath 1.2m wide on the eastern side and 2.5m wide on the western side constructed of concrete shall be provided for the full length of Bottlebrush Drive. The design and construction standard shall comply with AUSPEC (TSC Version).
40. The owner or contractor must not undertake any work within the public road reserve without giving Council's Engineering Services Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.
41. 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.
42. Pram ramps are to be constructed at road intersections in accordance with Council's Plan No. A4-96 to the satisfaction of the Director of Engineering Services and in accordance with Council's Standard Plan No. A4-96. Mountable or roll top kerb does not meet pram ramp requirements, and therefore requires a pram ramp to be constructed as above.
43. 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. If the proposed development requires driveway access (or modification of access) onto a public road, prior to the issue of a construction certificate and prior to any works taking place on the public road, a detailed application for access/driveway under Section 138 of the Road Act must be submitted to and consent granted by Council. 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.

DRAINAGE/FLOODING

44. On completion of the filling work, all topsoil to be respread and the site to be grassed and landscaped.
45. No filling is to be placed hydraulically within twenty metres (20m) of any boundary that abutts private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.

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

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46. Inter allotment drainage shall be provided to **ALL** lots where roof water from dwellings, driveways and paved accesses cannot be conveyed to the street gutter by gravitational means. Where inter-allotment drainage has not been provided, Certification by a duly qualified Engineer is to be provided stating that roof water from the building envelope can be conveyed to the street gutter by gravitational means or that all Q20 24 hour runoff from impervious areas of the site can be disposed of, on site, by means of infiltration.
47. Erosion and Sediment Control During the Construction Phase of Development
- (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with the *"Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 - Stormwater Quality"* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.
- (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
48. The earthworks shall be carried out in accordance with AS 3798-1996, "Guidelines on Earthworks for Commercial and Residential Developments". In general, material shall be placed in layers not exceeding 300mm in depth, watered and compacted to achieve the specified density ratio as monitored in Table 5.1 - Guidelines for Minimum Relative Compaction.
49. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with Appendix B, AS 3798-1996. In addition, the frequency of field density testing shall be to a Type 1 standard in accordance with Table 8.1 of AS 3798-1996. The geotechnical report shall be accompanied by a certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798-1996.
50. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of the stormwater pipes will be required to demonstrate that the standard of the stormwater system is acceptable to Council.

Any defects identified by the inspection are to be repaired using any one of the following repair techniques or such other technique as may be approved by the Director of Engineering Services.

- Tiger Patch patch liner;

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- Econoliner;
- PL Quick Sleeve System;
- Flexi-Bond method

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

51. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the Director Development Services.
52. All stormwater discharged from the site including dewatering discharge is to be directed to a sediment pond prior to final discharge into any waterway. The sediment ponds or other approved devices are to be maintained in good condition until the maintenance bond is released.
53. 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.

54. Permanent Stormwater Quality Treatment
 - (a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development" . New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.
 - (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site

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management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.

- (c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
- (d) Treatment devices to remove stormwater pollutants may be located in the underground drainage system, immediately prior to its discharge into the existing drainage system, provided suitable maintenance access is provided.

55. Section 68 Local Government Act 1993 approval for stormwater drainage works.

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

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

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

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.

SERVICES

Sewer

56. Prior to issuing a Subdivision Certificate, outfall sewerage reticulation shall be provided to all lots within the subdivision including a minimum 150mm diameter sewer junction terminated at least 1.0m inside the property boundary of each lot in accordance with engineering plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

Council does not permit the building over Council's sewers. When buildings are located in close proximity to the sewer, detailed plans of footing types, location and depth relative to the sewer are required to be included with the Construction Certificate Application.

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.

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Water

57. Prior to issuing a Subdivision Certificate, Town Water shall be provided to each lot including a minimum size 25mm outside diameter water service terminated 1.0m inside the property boundary of each lot in accordance engineering with plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

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.

Telephone

58. The production of written evidence from Telstra Australia certifying that satisfactory arrangements have been made for the provision of underground telephone supply.

Electricity

59. i. The production of written evidence from Northpower certifying that reticulation of underground electricity (residential and rural residential) has been completed; and
- ii. The reticulation to include the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

ENVIRONMENT PROTECTION

60. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.
61. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.
62. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
63. 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, fumes or the like.
64. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17⁰ or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.

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

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

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- iii) Densely plant with sub-tropical (rainforest) native and exotic species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
 - iv) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.
 - v) The landscaping shall be completed to the satisfaction of the Director Development Services **PRIOR** to the issue of a Subdivision Certificate.
 - vi) A bond shall be lodged prior to the issue of the subdivision certificate to ensure that the landscaping is maintained by the developer for a period of 6 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.
65. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
66. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning.
67. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays.
68. 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.

L10 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.

L10 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.
69. 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 to the satisfaction of the Director of Development Services.
70. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
71. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down"

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area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director of Engineering Services.

72. The burning of builders waste on site by open fire is prohibited.
73. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

Erosion and sediment control shall be in accordance with the *"Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 - Stormwater Quality"* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

74. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.
75. Except as may be expressly provided in the approval, the approval holder must comply with section 120 of the Protection of the Environment Operations Act 1997 prohibiting the pollution of waters.
76. The LA10 noise level emitted from the premises shall not exceed the background noise level (LA90) in any Octave Band centre frequency (31.5 Hz – 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.
77. Acid sulfate soils shall not be disturbed or exposed in a manner which is likely to generate acid sulfate runoff.
78. The applicant shall comply with the recommendations related to the protection of the Queensland Blossom Bat, including the erection of fences, as specified in Part 12.4 of the Eight Part Test of Significance Stage 4 Koala Beach Estate Pottsville (Prepared by the Australian Koala Foundation, July 2001), except where varied by the Plan of Management approved by NSW NPWS).
79. A fence shall be placed prior to the commencement of works for the purposes of protecting Queensland Blossom Bat habitat as indicated on Figure 10 of the Development Layout and Engineering Report, Cardno MBK, May 2001.
80. Erosion and sediment control measures shall be placed in accordance with Figure 10 of the Development Layout and Engineering Report, Cardno MBK, May 2001 and any other directions or requirements of the Director Environment & Community Services.

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81. A Stormwater Monitoring Plan, including details of monitoring locations and frequency shall be submitted for approval of the Director Environment & Community Services prior to the commencement of works. All works shall comply with that approved plan.
82. All stormwater shall be directed to the water quality control ponds on the site, and shall not be discharged direct to any watercourse or wetland.
83. All relevant amelioration measures in the Koala Plan of Management submitted with the application to be implemented, including:-
 - (a) Where possible retention of all Banksia Integrefolia species greater than 125mm diameter at breast height to be protected tagged and shown on Engineering Plans, and incorporated in Subdivision design.
 - (b) Retention of all Koala home range trees, primary browse tree and other trees identified in Figures 2, 2B, 6, 8 and 10 of the Development Layout and Engineering Report prepared by Cardno MBK and dated May 2001.
 - (c) All trees identified in (a) and (b) to be fenced, flagged or labelled prior to commencement of construction (evidence of such to be submitted to Council prior to any work commencing and throughout construction) and Section 88B restrictions as to user on the title of each lot created where such trees occur to prohibit disturbance, damage or removal.
 - (d) Restriction as to user under Section 88B of the Conveyancing Act to be imposed on the title of all lots, providing that domestic dogs and cats must **NOT** be permitted or kept or otherwise brought onto the Searanch site. All access roads to the site to be signposted to that effect. The restriction shall contain a provision enabling the restriction to be revoked, varied or modified only with the consent of Council.
 - (e) All earthworks or bushfire management measures involving tree removal from areas known to be utilised by koalas must not proceed until the area has been inspected by an officer of the Australian Koala Foundation, or their nominated representative. Tree clearing operations will be temporarily suspended within a range of 50m from any tree which is concurrently occupied by a koala and will not resume until the koala has moved off on its own accord out of the area.
 - (f) Road design standards, appropriate speed control devices and koala crossing area shall be incorporated into the subdivision design to the extent that they restrict motor vehicles to a maximum speed of 40kph within that area of the Searanch site proposed for development.
 - (g) Restrictions as to user under section 88B of the Conveyancing Act to ensure that all swimming pools installed by future residents of the Searanch community must possess a stout rope (minimum 50mm diameter), on end of which is secured to a stable poolside fixture, the other of which must trail in the pool at all times, and that fencing in the proposed development area should not be encouraged. However, where fencing is considered necessary for privacy or security reasons, a minimum ground clearance of 200mm must be maintained. Swimming pool

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fences must maintain a maximum ground clearance of 100mm to comply with the Swimming Pool Fence Regulations.

- (h) Kerbside plantings for the purpose of landscaping the proposed urban subdivision must incorporate a minimum of 1 koala food tree for every two residential allotments.
- (i) The importance of the Searanch site for koala conservation and the potential role of the community in managing the population must be communicated to intending land purchasers and prospective residents by way of a detailed information brochure.

84. Compliance with the Koala Management Plan (as amended). A review of the approved Koala Management Plan (as amended) is to be undertaken in terms of its effectiveness in its application to Stages 1 and 2 of the development. The review is to address (but not be limited to) the following matters:

- The results of the Koala population monitoring.
- The effectiveness of the protective measures employed, for example, has the retention of Koala feed trees been successful? Have there been any road kills? Have there been any dog kills?
- Details of any protective measures that should be considered in addition to the Koala Management Plan for Stages 1 and 2.
- Any site-specific measures proposed for Stage 4.

The review is to be submitted to Council and NSW NPWS prior to release of the Subdivision Certificate. Following the review any necessary amendments to the Koala Management Plan are to be made.

85. The Subdivision is to be carried out in accordance with the recommendations contained in the Eight-Part Test of Significance prepared by the Australian Koala Foundation dated July 2001.

86. Surveys are to be undertaken of the Bush Thick-Knee and Long-nosed Potoroo as recommended in the Eight-Part Test of Significance prepared by the Australian Koala Foundation dated July 2001. The results of the surveys and proposed protective measures as appropriate are to be submitted to Council and NSW NPWS prior to release of the Subdivision Certificate.

87. An amended Plan of Management for the land zoned 7(l) Environmental Protection (Habitat) is to be submitted to the satisfaction of Council, prior to the release of the Construction Certificate. The amended plan is to be prepared by a suitably qualified person and address the following matters in detail:

- Measures to progressively remove exotic weeds.
- Measures to ensure native vegetation is regenerated.

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- Measures to ensure threatened species habitat is conserved.
88. The Statement of Landscape Intent prepared by EDAW dated 28 May 2001, shall be amended as follows:
- Deletion of: Peltophorum pterocarpum
Dieties grandiflora
Gazania
Hymenocallis littoralis
 - Inclusion of: Allocasuarina littoralis
- The amended plan shall be submitted to Council prior to the release of the Subdivision Certificate.

BUSHFIRE MANAGEMENT

89. Unless otherwise approved by Council, a restriction as to user under Section 88B of the Conveyancing Act is to be imposed, requiring an area at the rear of all lots backing onto land zoned 7(l) for bush fire mitigation purposes, as indicated in Figure 2B, wherein:
- (i) no buildings except swimming pools are to be permitted,
 - (ii) area is to be kept generally free of ground litter and fire susceptible plant species;
 - (iii) and any fencing to be constructed in non-combustible material.
90. The proposed development is to be carried out in accordance with the Bush Fire Management Plan prepared by Cardno MBK and dated April 2001, except as varied by Council. The plan is to be amended to incorporate the following:
- (a) Manual (or brush cutter) fuel management of ground cover within that part of the buffer encroaching on the 7(l) Environmental Protection (Habitat) Zone.
 - (b) Signs detailing the fuel management measures shall be erected, details of proposed signage to be submitted to Council for approval.
 - (c) The extent of the asset protection zone located within the 7(l) Environmental Protection (Habitat) Zone is to be clearly and permanently marked to the satisfaction of Council.

Measures (b) and (c) are to be carried out prior to the release of the Subdivision Certificate (i.e. prior to the final civil works inspection). The amendments detailed above are also required to be reflected in the management plan for the 7(l) Environmental Protection (Habitat) Zoned land, the Buffer Area Management Plan and the Maintenance Plan for the Bush Fire Management Zones. The amended plans are to be submitted to Council prior to the release of the Construction Certificate.

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91. Prior to the issue of a Subdivision Certificate a maintenance plan for the Bush Fire Management Zones must be submitted to and approved by the Manager Recreation Services. The plan shall include (as a minimum) the following sections:-
- (i) Introduction – location, subdivision details
 - (ii) Description – zone boundaries and locations
 - (iii) Bush Fire Management – objectives, issues, options
 - (iv) Recommendations
 - (v) Maintenance Plan – to explain what maintenance is required, when and where is it required and how it is to be undertaken, including machinery, methods manpower and equipment. The Maintenance Plan is to incorporate the following:
 - (a) The Inner Protection Zone (or fuel free zone) is to be able to be easily maintained by a slasher. The Inner Protection Zone is to be of a manageable slope $<25^\circ$ and the surface is to be free of rocks, logs, etc that may impede access, damage machinery or pose safety issues to the operator or the public.
 - (b) Maintenance measures are to achieve a maximum fuel loading of 8 tonnes per hectare within the Outer Protection Zone (or fuel reduced zone). Details of proposed manual/brush cutter clearing of fuel so as not to impact on significant trees are to be provided (as recommended by the Australian Koala Foundation).

An inspection of the above Bush Fire Management works is to be carried out by Council officers prior to release of the Subdivision Certificate (i.e. prior to the final civil works inspection).

DEPARTMENT OF LAND & WATER CONSERVATION – GENERAL TERMS OF APPROVAL

92. The works area shall be revegetated to reduce erosion potential as soon as works are completed.
93. Vegetation native to the local area only are to be used in the revegetation program (except grasses for initial soil stabilisation).
94. If required, the site shall be fenced off to prevent stock access while the site is undergoing restoration and revegetation.
95. Any fill shall be protected to prevent it from being eroded.
96. Any structural works shall be secure to withstand flow velocities at the bankfull discharge of the stream.
97. No materials shall be used that may pollute the stream.
98. No materials may be used that may create a risk to public safety.

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99. All scrub, undergrowth and timber removed from the area of operation shall be disposed of so that the debris cannot be swept back into the stream during a flood.
100. If in the opinion of any reasonable officer of the Department of Land and Water Conservation any work is being carried out in such a manner as it may damage or detrimentally affect the stream or damage or interfere in any way with any work, the operation in that section of the said stream shall cease forthwith upon written or oral direction of such officer.
101. A copy of this letter of permission shall be made available to officers of the Department upon request.
102. This permit does not give you the right to occupy any land without the owners consent, nor does it relieve you of any obligation which may exist to also obtain permission from Local Government and other Authorities who may have some form of control over the site of the work and/or the activities you propose to undertake.
103. The site shall be restored and revegetated to the satisfaction of the Department of Land and Water Conservation.
104. The permit holder and the owner or occupier of the land are responsible for any excavation, removal or placement of material or construction of works undertaken by any other person or company at the site.
105. This permit is not transferable to any other person or Company and does not allow operations at any other site.
106. The permit does not allow an extractive industry at the site.
107. This permit is issued with the provision that operations shall be carried out on freehold land. Should operations be on Crown land, this permit is rendered null and void.
108. Operations shall be conducted in such a manner as not to cause damage or interfere in any way with vegetation on adjacent banks.
109. Operations shall be conducted in such a manner as not to cause damage or increase the erosion of adjacent bed and banks.
110. Sediment control measures shall be provided for the duration of works and until the site is stabilised.
111. If the permit conditions have been breached the permit holder shall restore the site to the satisfaction of the Department. If the works as directed are not completed then the permit holder shall pay a fee prescribed by the Department for the initial breach inspection and all subsequent inspections.

AMENDMENT

Cr James

Cr Luff

PROPOSED that the applicant be asked to amend the subdivision plan so that the bushfire protection zone does not encroach on residential allotments or the Council reserve.

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The Amendment was **Lost**

Voting For

Cr Carroll
Cr James
Cr Luff

Voting Against

Cr Polglase
Cr Beck
Cr Boyd
Cr Brinsmead
Cr Davidson
Cr Lawrie
Cr Marshall
Cr Youngblutt

The Motion was **Carried**

Voting For

Cr Polglase
Cr Beck
Cr Boyd
Cr Brinsmead
Cr Carroll
Cr Davidson
Cr Lawrie
Cr Marshall
Cr Youngblutt

Voting Against

Cr James
Cr Luff

**3. Establishment of a Wholesale Nursery and Ancillary Buildings at Lot 1 DP1009372
No 1 Piggabeen Road, Piggabeen**

DA4300/1600 Pt2

494

Cr Beck

Cr Brinsmead

RESOLVED that Development Application 1026/2001DA for establishment of a wholesale nursery and ancillary buildings at Lot 1, DP 1009372 No 1 Piggabeen Road, Piggabeen be approved subject to the following conditions:-

CONTRIBUTIONS

1. A **certificate of compliance** (CC) under Part 3 Division 2 of the Water Supply Authorities Act 1987 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 79H of the Environmental Planning and Assessment Regulations, 1994, a Construction Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Water: 1 lot @ \$3840.00 \$3840.00

Sewer: 1 lot @ \$3215.00 \$3215.00

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

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

FURTHER APPROVALS

2. Prior to commencement of work pursuant to this consent a **Construction Certificate** shall be obtained for the works proposed and required by this consent.

The following information must accompany applications for a construction certificate for building & subdivision work.

(i) Building Work

In the case of an application for a construction certificate for **building work**:

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

The plan for the building must be drawn to a suitable scale and consist of a general plan and a block plan. The general plan of the building is to:

- show a plan of each floor section
- show a plan of each elevation of the building
- show the levels of the lowest floor and of any yard or unbuilt on area belonging to that floor and the levels of the adjacent ground
- indicate the height, design, construction and provision for fire safety and fire resistance (if any)

Where the proposed building work involves any alteration or addition to, or rebuilding of, an existing building the general plan is to be coloured or otherwise

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marked to the satisfaction of the certifying authority to adequately distinguish the proposed alteration, addition or rebuilding.

Where the proposed building works involves a modification to previously approved plans and specifications the general plans must be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the modification.

The specification is:

- to describe the construction and materials of which the building is to be built and the method of drainage, sewerage and water supply
 - state whether the materials proposed to be used are new or second hand and give particulars of any second hand materials used
- c) where the application involves an alternative solution to meet the performance requirements of the BCA, the application must also be accompanied by:
- details of the performance requirements that the alternative solution is intended to meet, and
 - details of the assessment methods used to establish compliance with those performance requirements
- d) evidence of any accredited component, process or design sought to be relied upon
- e) except in the case of an application for, or in respect of, a class 1a or class 10 building:
- a list of any fire safety measures that are proposed to be implemented in the building or on the land on which the building is situated, and
 - if the application relates to a proposal to carry out any alteration or rebuilding of, addition to, an existing building, a separate list of such of those measures as are currently implemented in the building or on the land on which the building is situated.
- f) Engineering plans and specifications for all civil engineering works required by this consent.

The list must describe the extent, capability and basis of design of each of the measures concerned.

GENERAL

3. The development shall be completed in general accordance with Plans and documentation submitted with the Development Application and dated 26 September 2001, except where varied by these conditions.
4. The building is not to be used or adapted as a dwelling house.

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5. The bath contained in the bathroom on the first floor shall be removed from the proposed building.
6. No soil, sand, gravel, clay or other material shall be disposed of off the site.
7. 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 to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
8. In pursuance of the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with AS1428-1993 Parts 1 to 4 - Design for Access and Mobility.
9. No plants or landscaping products are to be sold directly to the public from the site.
10. The provision of six (6) off street car parking spaces. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls. All vehicles loading and unloading shall be located wholly within the subject land.
11. Advertising structures/signs to be the subject of a separate development application, where statutorily required.
12. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
13. 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.
14. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
 - a. footings, prior to pouring of concrete
 - b. slab, prior to pouring of concrete
 - c. frame prior to the erection of brick work or any wall sheeting
 - d. final inspection prior to occupation of the building
15. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:
 - (i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
 - (ii) Certification of the works performed by the person carrying out the works is to be submitted to the PCA prior to occupation of the building; and

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- (iii) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
- (A) the method of protection; and
 - (B) the date of installation of the system; and
 - (C) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
 - (D) the need to maintain and inspect the system on a regular basis.

Note: Underslab chemical treatment will not be permitted as the only method of treatment unless the area can be retreated without major disruption to the building.

16. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
- i. All required erosion and sedimentation control devices have been installed and are operational.
 - ii. Required toilet facilities have been provided on the site.
 - iii. A sign has been erected on the site identifying:
 - Lot number
 - Builder
 - Phone number of builder or person responsible for site.
 - iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.

17. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications, conditions of Consent and the relevant provisions of the Building Code of Australia.

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

PRESCRIBED BUILDING

19. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-
- (a) a standard flushing toilet connected to a public sewer, or

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- (b) if that is not practicable, an accredited sewage management facility approved by the council, or
 - (c) if that is not practicable, any other sewage management facility approved by the council.
20. A sign must be erected on the site in a prominent, visible position stating:
- a. that unauthorised entry to the work site is prohibited; and
 - b. showing the name of the builder, or another person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours.
21. 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 or complying development certificate was made).
22. The erection of a building in accordance with a development consent must not be commenced until:
- a. detailed plans and specifications of the building have been endorsed with a construction certificate by:
 - (i) the consent authority; or
 - (ii) an accredited certifier; and
 - b. the person having the benefit of the development consent:
 - (i) has appointed a Principal Certifying Authority; and
 - (ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
 - c. the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.
23. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least **2 days** prior to work commencing.
24. Prior to occupation of the building a Occupation Certificate is to be obtained. If Council is requested to issue the Occupation Certificate, the application must be accompanied by relevant Compliance Certificates or documentary evidence of compliance.
25. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required

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essential fire safety measure has been designed and installed in accordance with the relevant standards.

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

DISABLED BUILDING

27. Access to the building for disabled persons shall be provided and constructed in accordance with the requirements of Part D3 of the Building Code of Australia and Australian Standard AS 1428.1.
28. 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 required that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

Environment Protection

29. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
30. Clearing of vegetation shall be limited to the north western corner of the allotment for the provision of a sewer connection for the proposed building. Any trees removed as part of these works are to be mulched and used on the subject land. Burning off of trees and associated vegetation felled by clearing is not permitted. A plan detailing any trees to be removed is to be submitted to the Director Development Services prior to commencement of any works.
31. All water runoff from the nursery is to be directed to the sedimentation dam on the subject land.
32. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays.
33. All activities associated with the activities associated with the nursery are to comply with the Protection of the Environment Operations Act, 1997.
34. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and

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sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

35. All runoff shall be retained and reused onsite. Run off containing contaminants or pollutants, particularly chemicals or fertilisers used in the nursery shall not be permitted to discharge to any stormwater, water course or drain.

PLUMBING AND DRAINAGE

36. An application for both sewer and water connections shall be made to Council's Engineering Services Division. A quotation will then be provided for the connections. Prepayment of those connections is required. Connections will be provided to an agreed location at the property boundary. The sewer connection will be in the north western corner of the allotment. Water Connection will be along the Piggabeen Road frontage.
37. The extension from the connection points will be carried out by a licensed plumber at the applicants expense and to the conditions of Council's Building Services Unit.
38. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
 - a internal drainage, prior to slab preparation;
 - b water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - c external drainage prior to backfilling.
 - d. completion of work.
39. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.

AMENDMENT

Cr Boyd

Cr Luff

PROPOSED that Development Application 1026/2001DA for establishment of a wholesale nursery and ancillary buildings at Lot 1, DP 1009372 No 1 Piggabeen Road, Piggabeen be approved subject to the following conditions:-

PRE-REQUISITES

1. Details of the colour, external treatment and finishes of the proposed building is to be submitted and approved by Council's Director Development Services prior to the issue of a Construction Certificate.

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CONTRIBUTIONS

2. A **certificate of compliance** (CC) under Part 3 Division 2 of the Water Supply Authorities Act 1987 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 79H of the Environmental Planning and Assessment Regulations, 1994, a Construction Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Water:	1 lot @ \$3840.00	\$3840.00
Sewer:	1 lot @ \$3215.00	\$3215.00

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

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

FURTHER APPROVALS

3. Prior to commencement of work pursuant to this consent a **Construction Certificate** shall be obtained for the works proposed and required by this consent.

The following information must accompany applications for a construction certificate for building & subdivision work.

(i) **Building Work**

In the case of an application for a construction certificate for **building work**:

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

The plan for the building must be drawn to a suitable scale and consist of a general plan and a block plan. The general plan of the building is to:

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- show a plan of each floor section
- show a plan of each elevation of the building
- show the levels of the lowest floor and of any yard or unbuilt on area belonging to that floor and the levels of the adjacent ground
- indicate the height, design, construction and provision for fire safety and fire resistance (if any)

Where the proposed building work involves any alteration or addition to, or rebuilding of, an existing building the general plan is to be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the proposed alteration, addition or rebuilding.

Where the proposed building works involves a modification to previously approved plans and specifications the general plans must be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the modification.

The specification is:

- to describe the construction and materials of which the building is to be built and the method of drainage, sewerage and water supply
 - state whether the materials proposed to be used are new or second hand and give particulars of any second hand materials used
- c) where the application involves an alternative solution to meet the performance requirements of the BCA, the application must also be accompanied by:
- details of the performance requirements that the alternative solution is intended to meet, and
 - details of the assessment methods used to establish compliance with those performance requirements
- d) evidence of any accredited component, process or design sought to be relied upon
- e) except in the case of an application for, or in respect of, a class 1a or class 10 building:
- a list of any fire safety measures that are proposed to be implemented in the building or on the land on which the building is situated, and
 - if the application relates to a proposal to carry out any alteration or rebuilding of, addition to, an existing building, a separate list of such of those measures as are currently implemented in the building or on the land on which the building is situated.
- f) Engineering plans and specifications for all civil engineering works required by this consent.

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The list must describe the extent, capability and basis of design of each of the measures concerned.

GENERAL

4. The development shall be completed in general accordance with Plans and documentation submitted with the Development Application and dated 26 September 2001, except where varied by these conditions.
5. The building is not to be used or adapted as a dwelling house.
6. The bath contained in the bathroom on the first floor shall be removed from the proposed building.
7. No soil, sand, gravel, clay or other material shall be disposed of off the site.
8. 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 to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
9. In pursuance of the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with AS1428-1993 Parts 1 to 4 - Design for Access and Mobility.
10. No plants or landscaping products are to be sold directly to the public from the site.
11. The provision of six (6) off street car parking spaces. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls. All vehicles loading and unloading shall be located wholly within the subject land.
12. Advertising structures/signs to be the subject of a separate development application, where statutorily required.
13. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
14. 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.
15. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
 - a. footings, prior to pouring of concrete
 - b. slab, prior to pouring of concrete
 - c. frame prior to the erection of brick work or any wall sheeting
 - d. final inspection prior to occupation of the building

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16. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:
- (i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
 - (ii) Certification of the works performed by the person carrying out the works is to be submitted to the PCA prior to occupation of the building; and
 - (iii) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
 - (A) the method of protection; and
 - (B) the date of installation of the system; and
 - (C) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
 - (D) the need to maintain and inspect the system on a regular basis.

Note: Underslab chemical treatment will not be permitted as the only method of treatment unless the area can be retreated without major disruption to the building.

17. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
- i. All required erosion and sedimentation control devices have been installed and are operational.
 - ii. Required toilet facilities have been provided on the site.
 - iii. A sign has been erected on the site identifying:
 - Lot number
 - Builder
 - Phone number of builder or person responsible for site.
 - iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
18. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications, conditions of Consent and the relevant provisions of the Building Code of Australia.

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

PRESCRIBED BUILDING

20. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) 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, or
 - (c) if that is not practicable, any other sewage management facility approved by the council.
21. A sign must be erected on the site in a prominent, visible position stating:
- a. that unauthorised entry to the work site is prohibited; and
 - b. showing the name of the builder, or another person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours.
22. 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 or complying development certificate was made).
23. The erection of a building in accordance with a development consent must not be commenced until:
- a. detailed plans and specifications of the building have been endorsed with a construction certificate by:
 - (i) the consent authority; or
 - (ii) an accredited certifier; and
 - b. the person having the benefit of the development consent:
 - (i) has appointed a Principal Certifying Authority; and
 - (ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
 - c. the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.
24. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least **2 days** prior to work commencing.

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25. Prior to occupation of the building a Occupation Certificate is to be obtained. If Council is requested to issue the Occupation Certificate, the application must be accompanied by relevant Compliance Certificates or documentary evidence of compliance.
26. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.
27. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

DISABLED BUILDING

28. Access to the building for disabled persons shall be provided and constructed in accordance with the requirements of Part D3 of the Building Code of Australia and Australian Standard AS 1428.1.
29. 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 required that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

Environment Protection

30. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
31. Clearing of vegetation shall be limited to the north western corner of the allotment for the provision of a sewer connection for the proposed building. Any trees removed as part of these works are to be mulched and used on the subject land. Burning off of trees and associated vegetation felled by clearing is not permitted. A plan detailing any trees to be removed is to be submitted to the Director Development Services prior to commencement of any works.
32. All water runoff from the nursery is to be directed to the sedimentation dam on the subject land.
33. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays.
34. All activities associated with the activities associated with the nursery are to comply with the Protection of the Environment Operations Act, 1997.
35. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

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Erosion and sediment control shall be in accordance with the *“Tweed Urban Stormwater Quality Management Plan”* (adopted by Council 19 April 2000) section 5.5.2 *“Stormwater Objectives During the Construction Phase of New Development”*. This section requires all new development to comply with Appendix E of the Plan *“Tweed Shire Council Aus-Spec D7 - Stormwater Quality”* and its Annexure A - *“Code of Practice for Soil and Water Management on Construction Works”*. Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

36. All runoff shall be retained and reused onsite. Run off containing contaminants or pollutants, particularly chemicals or fertilisers used in the nursery shall not be permitted to discharge to any stormwater, water course or drain.

PLUMBING AND DRAINAGE

37. An application for both sewer and water connections shall be made to Council’s Engineering Services Division. A quotation will then be provided for the connections. Prepayment of those connections is required. Connections will be provided to an agreed location at the property boundary. The sewer connection will be in the north western corner of the allotment. Water Connection will be along the Piggabeen Road frontage.
38. The extension from the connection points will be carried out by a licensed plumber at the applicants expense and to the conditions of Council’s Building Services Unit.
39. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- a internal drainage, prior to slab preparation;
 - b water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - c external drainage prior to backfilling.
 - d. completion of work.
40. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.

The Amendment was **Lost**

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Voting For

Cr Boyd
Cr Carroll
Cr James
Cr Luff
Cr Marshall

Voting Against

Cr Polglase
Cr Beck
Cr Brinsmead
Cr Davidson
Cr Lawrie
Cr Youngblutt

The Motion was **Carried**

Voting For

Cr Polglase
Cr Beck
Cr Brinsmead
Cr Davidson
Cr James
Cr Lawrie
Cr Luff
Cr Marshall
Cr Youngblutt

Voting Against

Cr Boyd
Cr Carroll

4. Review of Tweed Shire 2000+ Strategic Plan

GT1/LEP/2000 Pt1

495

Cr Boyd

Cr Luff

RESOLVED that Council conducts a major review of the Tweed Shire 2000+ Strategic Plan.

Voting - Unanimous

5. Unauthorised Earthworks and Clearing of Lot 1 DP1009372 Piggabeen Road, Tweed Heads West

DA4300/1600 Pt2

496

Cr Beck

Cr Brinsmead

RESOLVED that Council agrees to the consent orders being modified to reflect the agreement reached with the Respondent.

AMENDMENT

Cr Boyd

Cr Luff

PROPOSED that Council:-

1. Agrees to the consent orders being modified to reflect the agreement reached with the Respondent except in the matter of costs.

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2. Pursues costs from the respondent and should such not be agreed by way of consent orders, that the matter of cost be heard by the Land & Environment Court.

The Amendment was **Lost**

Voting For

Cr Boyd
Cr James
Cr Luff

Voting Against

Cr Polglase
Cr Beck
Cr Brinsmead
Cr Carroll
Cr Davidson
Cr Lawrie
Cr Marshall
Cr Youngblutt

The Motion was **Carried**

Voting For

Cr Polglase
Cr Beck
Cr Boyd
Cr Brinsmead
Cr Carroll
Cr Davidson
Cr Lawrie
Cr Luff
Cr Marshall
Cr Youngblutt

Voting Against

Cr James

6. **Tourist Accommodation at Lot 1, DP 617124 No. 167 Upper Crystal Creek Road, Upper Crystal Creek**

DA5700/370 Pt1

Cr Boyd

Cr Marshall

PROPOSED that:-

- A. The applicant be advised that Council's support for the Development Application to erect a tourist cabin at Lot 1 DP 617124 Upper Crystal Creek Road, Upper Crystal Creek is subject to the cabin being setback at a minimum of 6 metres from the property boundaries. In addition a condition be placed on any consent that the land between the cabin and the property boundaries will be suitably landscaped.
- B. Following resolution of the above matter Council delegates determination of the application to Director Development Services.

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AMENDMENT 1

Cr Lawrie

Cr Beck

PROPOSED that:-

- A. The applicant be advised that Council's support for the Development Application to erect a tourist cabin at Lot 1 DP 617124 Upper Crystal Creek Road, Upper Crystal Creek is subject to the cabin being setback at a minimum of 1.5 metres from the property boundaries. In addition a condition be placed on any consent that the land between the cabin and the property boundaries will be suitably landscaped.
- B. Following resolution of the above matter Council delegates determination of the application to Director Development Services.

Amendment 1 was **Lost**

Voting For

Cr Beck
Cr Brinsmead
Cr Lawrie
Cr Youngblutt

Voting Against

Cr Polglase
Cr Boyd
Cr Carroll
Cr Davidson
Cr James
Cr Luff
Cr Marshall

AMENDMENT 2

Cr Davidson

Cr Youngblutt

497

RESOLVED that

- A. The applicant be advised that Council's support for the Development Application to erect a tourist cabin at Lot 1 DP 617124 Upper Crystal Creek Road, Upper Crystal Creek is subject to the cabin being setback at a minimum of 3 metres from the property boundaries. In addition a condition be placed on any consent that the land between the cabin and the property boundaries will be suitably landscaped.
- B. Following resolution of the above matter Council delegates determination of the application to Director Development Services.

Amendment 2 was **Carried**

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Voting For

Cr Polglase
Cr Beck
Cr Brinsmead
Cr Davidson
Cr Lawrie
Cr Youngblutt

Voting Against

Cr Boyd
Cr Carroll
Cr James
Cr Luff
Cr Marshall

The Amendment on becoming the Motion was **Carried**

Voting For

Cr Polglase
Cr Beck
Cr Brinsmead
Cr Davidson
Cr Lawrie
Cr Marshall
Cr Youngblutt

Voting Against

Cr Boyd
Cr Carroll
Cr James
Cr Luff

7. The Establishment of a Rural Industry (Lawn Mower Repair Workshop) at Lot 11 DP19727 Kyogle Road, Bray Park

DA2970/10 Pt1

498

Cr Youngblutt

Cr Davidson

RESOLVED that Development Application 0420/2001DA for the establishment of a rural industry (lawn mower repair workshop) at Lot 11, DP 19727 Kyogle Road, Bray Park be approved subject to the following conditions:

PRE REQUISITES

1. A detailed plan of landscaping is to be submitted and approved by Council's Director, Development Services prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.
2. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted for approval by Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.
3. (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

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Pursuant to Clause 79H of the Environmental Planning and Assessment Regulations, 1994, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

- a. Extensions to Council Administration Offices and technical support facilities

1 unit @ \$69.00 \$69.00

GENERAL

4. The development shall be completed in general accordance with Plans Nos 1 & 2 prepared by M. Graffin and dated 26 August 2001, except where varied by these conditions.
5. The use is to comply with the definition of "rural industry" in Tweed Local Environmental Plan 2000.
6. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
 - a. footings, prior to pouring of concrete
 - b. slab, prior to pouring of concrete
 - c. frame prior to the erection of brick work or any wall sheeting
 - d. final inspection prior to occupation of the building
7. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:
 - (i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
 - (ii) Certification of the works performed by the person carrying out the works is to be submitted to the PCA prior to occupation of the building; and
 - (iii) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
 - (A) the method of protection; and

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- (B) the date of installation of the system; and
- (C) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
- (D) the need to maintain and inspect the system on a regular basis.

Note: Underslab chemical treatment will not be permitted as the only method of treatment unless the area can be retreated without major disruption to the building.

8. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
 - i. All required erosion and sedimentation control devices have been installed and are operational.
 - ii. Required toilet facilities have been provided on the site.
 - iii. A sign has been erected on the site identifying:
 - Lot number
 - Builder
 - Phone number of builder or person responsible for site.
 - iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
 - v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000.
9. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications, conditions of Consent and the relevant provisions of the Building Code of Australia.
10. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.
11. 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 to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
12. The provision of four (4) off street car parking spaces. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls.

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13. Advertising structures/signs to be the subject of a separate development application, where statutorily required.
14. No items or goods are to be stored or displayed outside the confines of the premises.
15. All trade materials, product and plant to be kept within confines of the building at all times.
16. All loading/unloading to take place within the boundary of the subject property.
17. Car parking spaces are to be suitably screened from view from any public place or public reserve, such screening to be detailed in the landscaping plan.
18. 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.
19. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
 - a. footings, prior to pouring of concrete
 - b. slab, prior to pouring of concrete
 - c. frame prior to the erection of brick work or any wall sheeting
 - d. final inspection prior to occupation of the building
20. The glazier is to supply the PCA with certification that all glazing complies with AS 1288 and AS2047 of the Building Code of Australia.

PRESCRIBED (BUILDING)

21. 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 or complying development certificate was made).
22. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) 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, or
 - (c) if that is not practicable, any other sewage management facility approved by the council.
23. A sign must be erected on the site in a prominent, visible position stating:
 - a. that unauthorised entry to the work site is prohibited; and

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- b. showing the name of the builder, or another person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours.
24. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied.
25. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.
26. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
27. The erection of a building in accordance with a development consent must not be commenced until:
- a. detailed plans and specifications of the building have been endorsed with a construction certificate by:
 - (i) the consent authority; or
 - (ii) an accredited certifier; and
 - b. the person having the benefit of the development consent:
 - (i) has appointed a Principal Certifying Authority; and
 - (ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
 - c. the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.
28. A person must not commence occupation or use of the whole or any part of a new building (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units)
29. Prior to occupation of the building a Occupation Certificate is to be obtained. If Council is requested to issue the Occupation Certificate, the application must be accompanied by relevant Compliance Certificates or documentary evidence of compliance.
30. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

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ENGINEERING (BUILDING)

31. The footings are to be designed by a practising Structural Engineer after consideration of a soil report from an accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the commencement of building work.
32. The footings are to be designed by a practising Structural Engineer after consideration of a soil report from an accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the commencement of building work.

FIRE (BUILDING)

33. Portable fire extinguishers containing an extinguishing agent suitable for the risk being protected must be installed in accordance with Australian Standard AS 2444 "Portable Fire Extinguishers - Selection and Location" and Part E1.6 of the Building Code of Australia.

DISABLED BUILDING

34. 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 required that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.
35. Access to the building for disabled persons shall be provided and constructed in accordance with the requirements of Part D3 of the Building Code of Australia and Australian Standard AS 1428.1.
36. If access for the disabled is required under Part D3 of the Building Code of Australia, facilities for the use of the disabled shall be provided as specified in Part F2.4 of the Building Code of Australia and shall be constructed to the requirements of Australian Standard AS1428.1.

ROADS/STREETS

37. The owner or contractor must not undertake any work within the public road reserve without giving Council's Engineering Services Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.
38. The concrete driveway across the footpath is to be constructed in accordance with the approved plan and be a minimum of 150 millimetres thick reinforced with F82 mesh.
39. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the Director, Engineering

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Services. Twenty four (24) hours notice is to be given to Council's Engineering Services Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the vehicular access and its reconstruction. Paving bricks are not acceptable unless laid on a 100mm thick concrete base.

40. The driveway is to be constructed 4.5 metres wide at the property boundary and 6.0 metres wide at the kerb line with a uniform taper if a splay is specified.
41. The footpath area is to be graded to the kerb and turfed for the full frontage of the site.
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. If the proposed development requires driveway access (or modification of access) onto a public road, prior to the issue of a construction certificate and prior to any works taking place on the public road, a detailed application for access/driveway under Section 138 of the Road Act must be submitted to and consent granted by Council. 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.
43. Pram ramps are to be constructed at road intersections in accordance with Council's Plan No. A4-96 to the satisfaction of the Director of Engineering Services and in accordance with Council's Standard Plan No. A4-96. Mountable or roll top kerb does not meet pram ramp requirements, and therefore requires a pram ramp to be constructed as above. A pram ramp will need to be provided in line with the existing pedestrian refuge.
44. The Engineering Plans and specifications to accompany the Construction Certificate application shall provide for:-
 - i. Construct along the full length of the Kyogle Road frontage vertical face kerb and gutter on an approved alignment along with associated sub-surface and over-land stormwater drainage systems and road pavement from the lip of the new kerb and gutter to the edge of the existing bitumen pavement including tapers.
 - ii. The existing cycleway to be modified on the corner of the Tree Street to raise it to the new kerb height.

DRAINAGE/FLOODING

45. Building materials used below Council's minimum floor level of RL 8.2m AHD must not be susceptible to water damage.
46. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2-1998. Note All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the PCA prior to commencement of building works.

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ENVIRONMENT PROTECTION

47. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.
48. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.
49. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
50. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning.
51. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays.
52. 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.

L10 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.

L10 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.
53. The burning of builders waste on site by open fire is prohibited.
54. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.
55. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

Erosion and sediment control shall be in accordance with the "Tweed Urban Stormwater Quality Management Plan" (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "Tweed Shire Council Aus-Spec D7 - Stormwater Quality" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

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56. The LA10 noise level emitted from the premises shall not exceed the background noise level (LA90) in any Octave Band centre frequency (31.5 Hz – 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.

PLUMBING AND DRAINAGE

57. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- a internal drainage, prior to slab preparation;
 - b water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - c external drainage prior to backfilling.
 - d. completion of work.
58. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
59. An application to connect to Council's sewer is to be submitted to and approved by Council prior to the commencement of any works on the site.
60. Facilities for the disabled shall be provided to the building in accordance with the Building Code of Australia standard AS1428.1. A floor plan of the building nominating the location of these sanitary facilities is to be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

TRADE WASTE

61. Any premises proposing to discharge into Councils sewerage system a waste water other than domestic sewage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by Councils Manager Water and concurrence received from the Department of Land and Water Conservation, if required, PRIOR to the issuing of a Construction Certificate to discharge to Councils sewerage system.
62. Liquid waste materials shall be stored in an impervious bunded area to the satisfaction of the Director Environment and Community Services. The liquid waste storage area shall be covered by a roof to exclude rain waters. Liquid wastes shall be disposed to the satisfaction of the Director Environment & Community Services and shall not be permitted to enter the sewer, stormwaters or any waterway.
63. Storage of materials or parts shall not be permitted to impact on the amenity of the area.

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64. All repair works shall be conducted within the proposed building.
65. All solid wastes shall be disposed to the satisfaction of the Director Environment & Community Services.

Voting For

Cr Polglase
Cr Beck
Cr Brinsmead
Cr Davidson
Cr Lawrie
Cr Marshall
Cr Youngblutt

Voting Against

Cr Boyd
Cr Carroll
Cr James
Cr Luff

TEMPORARY ABSENCE FROM MEETING

Cr Lawrie left the meeting.

REPORTS FROM DIRECTOR CORPORATE SERVICES

8. Gazettal of the Municipality of Murwillumbah

Gazettal of the Municipality of M'bah - 100 years

499

Cr Boyd

Cr Carroll

RESOLVED that the celebrations of the 100 years since the Municipality of Murwillumbah was gazetted include:

1. The official opening of the Heritage Wharf at the Tweed River Regional Art Gallery.
2. Boat trips between the present and proposed art gallery sites.
3. A heritage walk around Murwillumbah with members of Historical Societies and others encouraged to dress in period costume.
4. A historical feature in the Tweed Link.

Voting – Unanimous

RETURN TO MEETING

Cr Lawrie returned to the meeting.

TEMPORARY ABSENCE FROM MEETING

Cr Marshall left the meeting.

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9. Local Achiever Recognition Plaques

Memorials (incl Plaques), Civic Centre - M'bah

Cr Boyd

Cr Davidson

PROPOSED that Tweed Shire Council recognises residents on the Australian Honours List on the recognition plaques and not necessarily those who move to the area after receiving such an honour.

AMENDMENT

500

Cr Beck

Cr Marshall

RESOLVED that Tweed Shire Council recognises residents on the Australian Honours List on the recognition plaques.

The Amendment was **Carried**

Voting For

Cr Polglase
Cr Beck
Cr Brinsmead
Cr Carroll
Cr Davidson
Cr Lawrie
Cr Youngblutt

Voting Against

Cr Boyd
Cr James
Cr Luff

The Amendment on becoming the Motion was **Carried**

Voting For

Cr Polglase
Cr Beck
Cr Boyd
Cr Brinsmead
Cr Carroll
Cr Davidson
Cr Lawrie
Cr Luff
Cr Youngblutt

Voting Against

Cr James

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10. Transfer of Street Parking Enforcement to Local Government

Police; Parking - Illegal

501

Cr Youngblutt

Cr Davidson

RESOLVED that this report be received and noted.

Voting - Unanimous

RETURN TO MEETING

Cr Marshall returned to the meeting.

TEMPORARY ABSENCE FROM MEETING

Cr Davidson left the meeting.

11. Injunction in Relation to the Bulford Report

GT1/LEP/2000/20 Pt3

502

Cr Youngblutt

Cr Davidson

RESOLVED that this report be received and noted.

Voting - Unanimous

REPORTS FROM DIRECTOR ENGINEERING SERVICES

12. Banora Point, Tweed Coast and Murwillumbah Sewerage Strategy Studies

Sewerage Management - Business Plan; Sewerage Treatment - Banora Pt; Sewerage Treatment - M'bah; Sewerage Treatment - Hastings Pt

503

Cr Boyd

Cr Marshall

RESOLVED that Council adopts the Banora Point, Tweed Coast and Murwillumbah Sewerage Strategies as tabled at this meeting and incorporates the associated works programs in future annual budgets as appropriate; or alternatively requires relevant works from development applicants where necessitated by their development.

Voting - Unanimous

13. Cancellation of Restriction on Use Created in DP 883645 in Relation to Lot 3 in DP 883645

GS4/96/4 Pt2; GS4/98/31 Pt5

504

Cr Youngblutt

Cr Lawrie

RESOLVED that:-

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1. Council approves the cancellation of the Restriction on Use created in DP 883645 in relation to Lot 3 in DP 883645; and
2. All necessary documentation be endorsed and executed under the Common Seal of Council.

Voting - Unanimous

14. 11th NSW Coastal Conference

NSW Coastal Conference

505

Cr Luff

Cr Lawrie

RESOLVED that this report be received and noted

Voting - Unanimous

DECLARATION OF INTEREST

Cr Boyd

Declared an interest in Item No 15, left the Chamber and took no part in the discussion and voting.

The nature of the interest is that Cr Boyd is a neighbour of the property owner the subject of the report.

RETURN TO MEETING

Cr Davidson returned to the meeting.

15. Proposed Closure and Purchase of Part of a Crown Public Road Within Lot 1 in DP 380325, Dulguigan Road, Urliup

GR3/12/4; 1710.3010; Road - Closures - Berwick

506

Cr Youngblutt

Cr Lawrie

RESOLVED that:-

1. Council raises no objection to the partial closure of the Crown Public Road within Lot 1 in DP380325.
2. All necessary documentation be endorsed under the Common Seal of Council.

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Voting For

Cr Polglase
Cr Beck
Cr Brinsmead
Cr Carroll
Cr Davidson
Cr Lawrie
Cr Marshall
Cr Youngblutt

Voting Against

Cr James
Cr Luff

RETURN TO MEETING

Cr Boyd returned to the meeting.

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

16. Sports Field Assets Reserve Funding Application

Reg Dalton Oval; Govt Grant - Sport & Recreation; Bilambil Sports Complex; John Rabjones Oval; Les Cave Oval

507

Cr Polglase

Cr Boyd

RESOLVED that this item be referred to the Sports Advisory Committee for determination.

Voting - Unanimous

17. Proposed Tweed Natural High Campaign

Drug Related Matters

508

Cr Boyd

Cr Marshall

RESOLVED that Council:-

1. Endorses the proposed Tweed Natural High Campaign
2.
 - a. Forms an Advisory Committee to formulate such a campaign.
 - b. Appoints Councillor Polglase to be on the Committee
 - c. Requests the nominated Councillor, relevant staff and a representative of the Queensland Alcohol and Drug Foundation to meet to bring back to Council a recommended Advisory Committee membership.

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Voting For

Cr Polglase
Cr Beck
Cr Boyd
Cr Brinsmead
Cr Carroll
Cr Davidson
Cr Lawrie
Cr Marshall
Cr Youngblutt

Voting Against

Cr James
Cr Luff

18. Access/Erosion Plan - Fingal Head

Dune Care; Fingal Lighthouse; Fingal Peninsula

509

Cr Boyd

Cr Davidson

RESOLVED that Council endorses the Fingal Headland Access – Erosion Control Plan as included in this report.

Voting - Unanimous

19. Proposed Dwelling Lot 1 DP348293, 24 Tumbulgum Road Murwillumbah

DA5570/565 Pt1

This item was dealt with at Minute No 490.

20. Alternative Waste Disposal Technology

Waste Minimisation - Waste Management

510

Cr Marshall

Cr Lawrie

RESOLVED that Council executes the supplementary Memorandum of Understanding to formalise the admission of Beaudesert Shire Council to the project as a full member and affixes the Common Seal of Council to any amended documentation.

Voting - Unanimous

Minutes - Meeting of Tweed Shire Council

REPORTS FROM SUB-COMMITTEES

1. **Minutes of the Community Advisory Committee Meeting held Thursday 27 September 2001**

Community Advisory Committee

5. **Staff Training**

Community Advisory Committee

511

Cr Boyd

Cr Luff

RESOLVED that Council's Human Resources Unit ensures staff are aware of the legislation with regard to same sex relationships, to ensure Council complies with that legislation, and undertakes staff training if necessary.

Voting - Unanimous

6. **Combating Homophobia**

Community Advisory Committee

512

Cr Boyd

Cr Luff

RESOLVED that Council provides display boards in public locations for information about all services, and also in libraries

Voting - Unanimous

513

Cr Boyd

Cr Luff

RESOLVED that the balance of the Minutes of the Community Advisory Committee Meeting be adopted.

Voting For

Cr Polglase
Cr Boyd
Cr Brinsmead
Cr Carroll
Cr Davidson
Cr James
Cr Lawrie
Cr Luff
Cr Marshall
Cr Youngblutt

Voting Against

Cr Beck

Minutes - Meeting of Tweed Shire Council

2. Minutes of the Tweed Dune Care Advisory Committee Meeting held Thursday 8 November 2001

Dunecare

4. Fingal Dune Care Group

Dune Care

514

Cr Boyd

Cr Davidson

RESOLVED that the committee endorses the Draft Fingal Head Access and Erosion Control Plan and recommends Council also endorses the plan to be distributed to the community for further comment.

Voting - Unanimous

8. Signs on Trees

Regulatory Signs

515

Cr Boyd

Cr Davidson

RESOLVED that a letter be sent to the Koala Wanders requesting that they ensure new or replacement signs are placed on bollards or posts and not on trees.

Voting - Unanimous

10. Natural Heritage Trust

National Heritage Trust; Dune Care

516

Cr Boyd

Cr Davidson

RESOLVED that Council:

1. Accepts the \$87,000 funding from the Natural Heritage Trust towards the Tweed Coast Bitou Bush Control Strategy – Planning and Implementation Program and votes the expenditure accordingly.
2. Coordinates a meeting of the stakeholders that have committed funds to the project.

Voting - Unanimous

14. Sand By-Pass

Duranbah Beach; Sand By-Pass

517

Cr Boyd

Cr Davidson

RESOLVED that representatives of Tweed River Sand Bypass Advisory Committee be requested to meet with representatives of the Dune Care Committee to explain current arrangements and long term outcomes expected from on-going operations.

Voting - Unanimous

Minutes - Meeting of Tweed Shire Council

518

Cr Boyd

Cr Davidson

RESOLVED that the balance of the Minutes of the Tweed Dune Care Advisory Committee Meeting be adopted.

Voting - Unanimous

3. **Minutes of the Community Development and Support Expenditure Scheme Committee Meeting held Wednesday 14 November 2001**

CDSE

519

Cr Boyd

Cr Davidson

RESOLVED that Council requests a list of the final allocations for information.

Voting - Unanimous

520

Cr Boyd

Cr Davidson

RESOLVED that the balance of the Minutes of the Community Development and Support Expenditure Scheme Committee Meeting be adopted.

Voting - Unanimous

4. **Minutes of the Communication Committee Meeting held Thursday 22 November 2001**

File No: Communications Committee

2. **Community Representative Application/s**

Communications Committee

521

Cr Boyd

Cr Davidson

RESOLVED that Mr Dudley Kelso be appointed the third community representative on the Communications Committee and that Ms Alison Turner is asked to observe and participate as an alternate delegate.

Voting - Unanimous

522

Cr Boyd

Cr Davidson

RESOLVED that the balance of the Minutes of the Communication Committee Meeting be adopted.

Voting - Unanimous

Minutes - Meeting of Tweed Shire Council

OUTSTANDING INSPECTIONS

Nil

ADJOURNMENT OF MEETING

Adjournment for dinner at 6.30pm.

RESUMPTION OF MEETING

The Meeting resumed at 7.35pm.

ABENCE FROM MEETING

Cr Beck did not return to the meeting after the adjournment for dinner.

ORDERS OF THE DAY

1. Car Park - Pottsville

Notice of Motion; Car Parks - Other; Coronation Avenue; R1360

523

Cr James

Cr Marshall

RESOLVED that a report be prepared on options for and costs of sealing the informal parking area opposite the shops in Pottsville Memorial Park and controlling vehicle access to adjacent areas of lawn and to be included in the draft Budget.

Voting - Unanimous

2. Historical Societies - Tweed Shire

Notice of Motion; Historical Society

524

Cr Boyd

Cr Polglase

RESOLVED that Council acknowledges the significant role that our historical societies play and will continue to play in Tweed Shire by organising a workshop with their representatives early in the New Year to discuss with them their on-going needs and plans for the future.

Voting - Unanimous

3. Naming of Bridge - Fernvale

Notice of Motion; Bridges - General; Blakeney's Rd

525

Cr Youngblutt

Cr Lawrie

RESOLVED that Council advertises its intention to name the bridge on Blakeney's Road, near the Pacific Highway, Fernvale, be named Roach's Bridge.

Voting - Unanimous

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WORKSHOPS PREVIEW

1. Seaside City LES Workshop

GT1/LEP/2000/3 Pt5

526

Cr Boyd

Cr Davidson

RESOLVED that the Seaside City LES Workshop be held on 12 December 2001 at 2.00pm.

Voting – Unanimous

2. Address by Centenary of Federation Committee

Centenary of Federation

527

Cr Boyd

Cr Davidson

RESOLVED that the address by Centenary of Federation Committee be held on 12 December 2001 at 3.30pm.

Voting – Unanimous

3. Myer Site Redevelopment Workshop

DA4040/100 Pt1

528

Cr Boyd

Cr Davidson

RESOLVED that the Myer Site Redevelopment Workshop be held on 12 December 2001 at 7.30pm.

Voting – Unanimous

4. Tweed Economic Development Corporation Proposal

TEDC

529

Cr Boyd

Cr Davidson

RESOLVED that a Workshop be held on 12 December 2001 at 9.00pm to discuss the Tweed Heads Development Concept.

Voting – Unanimous

QUESTION TIME

Councillor Attendance at Meeting Hosted by TEDC

Question Without Notice; TEDC

Cr Marshall

Enquired as to why Councillors were not informed or invited to the meeting held on 3rd December 2001 at 12.30pm to be held at Council and then transferred to TEDC Offices with

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the officials from the Department of Transport and Regional Services and the newly Ministerially appointed Sustainable Regions Advisory Committee?

The General Manager responded that Council had no notification of the meeting, however he has made enquiries and will advise when a response is received.

ITEMS NOT ON THE AGENDA

Section 149 Certificates

Casuarina Development; Development – 149 Certificates

The Director Environment & Community Services tabled a draft letter to Mr Gary Payne, Director-General Department of Local Government regarding notification of Section 149 Certificates. The General Manager's draft letter is as follows:-

"I refer to your letter of 31 October 2001 regarding the above matter.

Your letter was distributed to Councillors, firstly via a confidential memorandum from myself on 7 November 2001.

The letter was formally presented to Council at its meeting on 21 November 2001.

As you would be aware the matter of possible contamination of lots within the subdivision has been a point of discussion between Council and the developers for some time.

This arose after radioactive residues from mineral sands were encountered during some of the earthworks for the subdivision.

Any residues which were moved from the contaminated area and placed elsewhere on the site were remediated to the satisfaction of Council and in accordance with a report provided by Queensland Health as a Consultant to the developer.

Their report however raised the possibility of contamination of other parts of the site owing to the fact that the area had been mined for mineral sands and the difficulty in detecting such material by surface gamma radiation testing.

As you note in your letter, Council made a decision on 3 October 2001 not to place a notation on section 149 Certificates that the lots may possibly be contaminated.

The Director Environment and Community Services, as you state in your letter, had recommended to that meeting that a notation should be placed on the certificates.

The Director, at a discussion with representatives of the Developer, some Councillors and some Council staff, advised that the correct way to assess the need for such a notation was to provide Council with additional information to give Council greater certainty as the remoteness of the likelihood of contamination to be present on the site.

This should include a historical survey of the site and greater testing of the site.

The issue arose again when applications for swimming pools, which naturally require greater excavation than dwellings, were being dealt with by Council staff.

A report on this matter was presented to Council on 7 November 2001 when it was resolved:-

"That Council does not consider that there is sufficient evidence to indicate that the land within the residential allotments at Casuarina is contaminated, therefore Council will not require the testing for radiation of any material proposed to be excavated as part of development and building activities and development

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applications shall be dealt with without reference to testing for radioactive material. This resolution does not apply to Lot N70."

A copy of the report to Council is attached.

A rescission motion was received on this resolution.

The rescission motion and your letter of 31 October were both on Council Agenda for 21 November 2001.

At that meeting Council received a presentation from the representatives and Consultants for Casuarina Beach.

This provided significant information to Council on all the testing of the site and historical data. Much of this had been provided to staff in written form prior to the meeting for comment.

The historical data and certification by the contractor on material encountered during earthworks were both of significance in helping to identify the likelihood of contaminated material being on site.

In addition fifty-one (51) additional test bores were randomly placed across the subdivision. None of the material tested was found to be positive above background radiation levels.

This information was consistent with earlier data upon which Council made its decision on 30 October that all the contaminated material found earlier was related to the tailings disposal pit on what is now lot N82.

Having considered all the information Council considered that the likelihood of radioactive material being present on the site, other than the parts excluded by the resolution of 21 November, was extremely low and in fact, no higher than in a multitude of other subdivisions on the NSW coast where sand mining has taken place. With the extent of investigation carried out it may be in fact less likely.

Based on the information provided and of advice from the Director Environment and Community Services that historical data and extensive testing, with the added advantage of the certification of the earthmoving contractor, would be the type of information sought to approve the subdivision if the contaminated material had been identified prior to the issue of the Development Consent. Council then carried the rescission motion and passed the following resolution:-

*"That Council determines that in relation to the developed residential land within Casuarina Development except Lots N70 DP 1031933, Lot 113 DP 1031933 and Lot 1 DP 1027531, notwithstanding the statement by QLD Health in its Addendum 1 to Stage 2 Radiation Investigation in Preliminary Report No 01PQ73P dated 3 September 2001 has stated "the presence of buried material at other locations on the site cannot be excluded as surface gamma radiation cannot detect the presence of buried material", Council does not consider it necessary to place any notation on Section 149 Certificates regarding radio-active contamination or require any further testing of sites for construction works.
This decision is made on the basis of:-*

- 1. The grid surface gamma radiation testing as per the letter from Cardno MBK of 13 August 2001;*

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2. *The investigation of the North Precinct dated 30 August 2001;*
 3. *The remediation advice of 10 October 2001;*
 4. *The historical data provided on the site by Cardno MBK dated 22 October 2001;*
 5. *The letter of advice of a further 51 boreholes across the site dated 20 November 2001 and the test results provided on the 51 boreholes dated 13 November 2001; and*
 6. *The letter of South East Excavations Pty Ltd dated 20 November 2001.*
- subject to Certification by the Consultant of the results of the Casuarina Beach Test Bore Investigation Results”.*

The certification required has now been received by Council.

A copy of the information provided to Council at the meeting is attached.

I trust this information will be of assistance to you.”

530

Cr Brinsmead

Cr James

RESOLVED that the draft letter, be forwarded.

Voting – Unanimous

COMMITTEE OF THE WHOLE

531

Cr Lawrie

Cr Boyd

RESOLVED that Council resolves itself into a Confidential Committee of the Whole.

Voting - Unanimous

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

MAYORAL MINUTE IN COMMITTEE

Department of Local Government Enquiry – Bulford Report

GT1/LEP/2000/20 Pt3

The Mayoral Minute dealt with the distribution of the Interim Reports from the Local Government Department officer, Mr Robert Bulford.

C119

That Council’s Solicitors be given a copy of Mr Bulford’s letter requesting comments.

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Voting – Unanimous

C120

That Council requests its legal advisers to ascertain what judgements have been made in relation to the injunction and to obtain a transcript of the Court hearing.

Voting - Unanimous

ABENCE FROM MEETING

Cr Beck did not return to the meeting after the adjournment for dinner.

REPORTS THROUGH GENERAL MANAGER IN COMMITTEE

REPORTS FROM DIRECTOR DEVELOPMENT SERVICES IN COMMITTEE

- a1. **Prohibited use of Land for the Purposes of a Brothel, Known as Lot 24 DP4043, No 40 Enid Street, Tweed Heads**

Brothels; PF1910/350

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2)
(e) information that would, if disclosed, prejudice the maintenance of law*

C124

That Council takes further action should the alleged unlawful use continue, by:-

1. Engaging professional assistance in retrieving evidence in respect of the unlawful activity, and
2. Pursuing legal proceedings.

Voting For

Cr Polglase
Cr Boyd
Cr Brinsmead
Cr Carroll
Cr Davidson
Cr Lawrie
Cr Luff
Cr Marshall
Cr Youngblutt

Voting Against

Cr James

REPORTS FROM DIRECTOR CORPORATE SERVICES IN COMMITTEE

1. **Contractual Conditions of Senior Staff**

Contract Council Staff

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2)
(a) personnel matters concerning particular individuals*

C125

That this report be received and noted.

Voting - Unanimous

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1a. Bilambil Sports Fields

Sports Field - Bilambil Sports Complex

Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2)

(d) commercial information of a confidential nature that would, if disclosed:

- (i) prejudice the commercial position of the person who supplied it, or*
- (ii) confer a commercial advantage on a competitor of the council, or*
- (iii) reveal a trade secret*

C126

That the General Manager acts in accordance with the content of the report.

Voting For

Cr Polglase
Cr Boyd
Cr Brinsmead
Cr Davidson
Cr Marshall
Cr Youngblutt

Voting Against

Cr Carroll
Cr James
Cr Lawrie
Cr Luff

REPORTS FROM DIRECTOR ENGINEERING SERVICES IN COMMITTEE

2. Marine Parade Kingscliff Pedestrian / Cycleway – EC2001-107

GC12/4-2001107 Pt1

Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2)

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

C127

That:-

1. The tender of \$88,490 from Haigh Constructions be accepted for EC2001-107.
2. Council approves the transfer and votes the expenditure of \$41,000 from the West Kingscliff Cycleway Walkway Contribution Plan No. 22 to cover the balance of the required budget appropriation.

Voting - Unanimous

3. Contract No. EC2001-109 - Preferred Minor Works Contractor for Water and Works Unit Construction Activities

GC12/2-2001109 Pt1

Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2)

(d) commercial information of a confidential nature that would, if disclosed:

- (i) prejudice the commercial position of the person who supplied it, or*
- (ii) confer a commercial advantage on a competitor of the council, or*
- (iii) reveal a trade secret*

C128

That:-

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1. The tender submitted by Kerry Vardy trading as K&D Landscaping and Paving for Contract No.EC2001-109 be accepted as the Water Unit Preferred Minor Works Contractor and the Works Unit second preference Minor Works Contractor.
2. The tender submitted by Greg Reeve trading as Tweed Summerland Kerbing for Contract No.EC2001-109 be accepted as the Works Unit Preferred Minor Works Contractor and the Water Unit second preference Minor Works Contractor.

Voting - Unanimous

4. Billinudgel Nature Reserve - Closure of Jones Road

DA5980/250 Pt1

Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2)

(a) personnel matters concerning particular individuals

C129

That Council obtains preliminary advice from Stacks the Law Firm in regard to whether or not Council should pursue the matter with a view to reinstating the previous status of Jones Road.

Voting - Unanimous

5. Contract No. EC2001-117 Design and Installation of a Surface Mixer for Destratification of Clarrie Hall Dam

GC12/2-2001117 Pt1

Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2)

(d) commercial information of a confidential nature that would, if disclosed:

- (i) prejudice the commercial position of the person who supplied it, or*
- (ii) confer a commercial advantage on a competitor of the council, or*
- (iii) reveal a trade secret*

C130

That:-

1. The tender submitted by Water Engineering and Research Solutions Pty Ltd (WEARS) for Contract No. EC2001-117 for the Lump Sum amount of \$137,500 including GST be accepted.
2. An amount of \$150,000 be voted from the Water Funds Capital Contribution Reserve to complete the works.
3. The Director Engineering Services be given delegated authority to approve variations up to 10% of the Contract Amount.

Voting - Unanimous

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ITEMS NOT ON THE AGENDA

MAPS Group Public Lighting Tender

Electricity; Streetlighting - General

C131

That Council delegates authority to the General Manager to participate in the MAPS tender for public street lighting if analysis indicates that the preferred tenderer's offer is acceptable.

Voting - Unanimous

532

Cr Lawrie

Cr Boyd

RESOLVED that the report and recommendations of the Confidential Committee of the Whole be adopted.

Voting - Unanimous

There being no further business the Meeting terminated at 8.25pm.



Minutes of Meeting Confirmed by Council

at Meeting held

**I hereby certify that I have authorised the affixing of my
electronic signature to the previous pages numbered 1 to 80 of these Minutes**

Chairman