

Minutes - Meeting of Tweed Shire Council

IN ATTENDANCE

Councillors W J Polglase (Mayor), L F Beck, 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 Bob Missingham (Acting Director Engineering Services), Mr David Broyd (Director Development Services), Mr Don Buckley (Director Environment & Community Services), Mr Ian Carpenter (Director Corporate Services), Mr Douglas Jardine (Manager Strategic Planning/Acting Director Development 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.

***"How good and pleasant it is when brothers and sisters live together in unity!
For there the LORD bestows His blessing."***

(Psalm 133:1,3)

"Almighty God, come meet with us today and guide us in all that we do! We look for Your wisdom as we consider the matters before us. Help us to set aside our differences and give us a fresh desire to work together for the welfare of our Shire.

Lord, we acknowledge the rich resources which are ours in our people as well as in the natural beauty which surrounds us. Bring us to our full potential as we learn to balance the opportunities for tourism, economic development and agriculture with the environmental issues we need to address.

Grant us grace in our dealings with one another. Enable us to act with dignity and integrity in all we do. We ask Your blessing upon each other; and especially for our Mayor, Warren, as he gives leadership within our Shire. Help him to be open in all things as he promotes our Shire to would-be residents and developers.

Father, by Your Spirit, brood over this chamber and let Your peace be upon us. Bring us to the end of this day with a sense of satisfaction and fulfilment. May we know the peace of Your presence; for we ask it in the Name of Jesus Christ our Lord. Amen."

CONFIRMATION OF MINUTES

53

Cr Davidson

Cr Youngblutt

RESOLVED that the Minutes of the Ordinary Meeting held 3 July 2002 be confirmed as an accurate record of the proceedings of that Meeting.

Voting - Unanimous

ABSENT

Councillor M R Boyd.

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Councillor Cr Boyd has informed the General Manager that his absence is caused by illness.

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Cr Beck

Cr James

RESOLVED that the apology of Cr Boyd be accepted.

Voting - Unanimous

DISCLOSURE OF INTEREST

Cr Youngblutt

Declared an interest in Item No 4 of the Confidential Agenda.

The nature of the interest is that Cr Youngblutt is the principal of a firm that has submitted a tender, the subject of this report.

ITEMS TO BE MOVED TO OR FROM CONFIDENTIAL

Cr Lawrie

Cr Youngblutt

RESOLVED that Confidential Item 2 of the Confidential Agenda be considered in Open Council.

Voting - Unanimous

SCHEDULE OF OUTSTANDING RESOLUTIONS

55

Cr Davidson

Cr Lawrie

RESOLVED that this report be received and noted.

Voting - Unanimous

MAYORAL MINUTE

1. Unveiling of Plaque – Chris Cunningham Park

Chris Cunningham Park, Memorials

This item was received and noted.

2. Citizenship Ceremony

Citizenship

This item was received and noted.

3. Performance - Jesus Christ Superstar

Councillors-Invitations

This item was received and noted.

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- 4. Apex Changeover** **Apex**
This item was received and noted.
- 5. Tweed Rescue Squad** **Twd Dist Rescue Squad**
This item was received and noted.
- 6. NAIDOC Celebrations** **Councillors-Invitations**
This item was received and noted.
- 7. RSL & Services Clubs Conference 2002** **Councillors-Invitations**
This item was received and noted.
- 8. Remembrance Service – RSL and Services Club Conference**
Chris Cunningham Park, Councillors-Invitations
This item was received and noted.
- 9. Tweed Chamber of Commerce Annual General Meeting** **Chamber of Commerce**
This item was received and noted.
- 10. Tweed Heads Red Cross Annual General Meeting** **Councillors-Invitations**
This item was received and noted.
- 11. Industrial Land** **Industrial Land Investigation Study**
This item was received and noted.
- 12. Australian Netball – Firebirds –v- Ravens** **Councillors-Invitations**
This item was received and noted.
- 13. Murwillumbah Croquet Club** **Councillors-Invitations**
This item was received and noted.
- 14. Sports Advisory Committee** **Sports Advisory Committee**
This item was received and noted.

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Adoption of Mayoral Minute

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Cr Polglase

RESOLVED that the Mayoral Minute as presented be adopted.

Voting - Unanimous

COMMITTEE OF THE WHOLE

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2)
(g) advice concerning litigation, or advice that would otherwise be privileged from
production in legal proceedings on the ground of legal professional privilege*

57

Cr Youngblutt

Cr Davidson

RESOLVED that Council resolves itself into a Confidential Committee of the Whole to be addressed by Mr Tony Smith, from Council's Solicitors, Stacks the Law Firm with Halliday and Stainlay on matters related to Addendum Item 2a of the Confidential Agenda.

Voting - Unanimous

ATTENDANCE AT MEETING

Cr Luff attended the meeting at 3.15pm.

RESUMPTION OF MEETING

Council resumed in Open Council.

TEMPORARY ABSENCE FROM MEETING

Cr Youngblutt left the meeting.

ITEMS DEFERRED

38. Desexing of Cats and Dogs

Companion Animals Committee

58

Cr Marshall

Cr Lawrie

RESOLVED that this item be dealt with at Item 20 (Minute No 88 refers)

Voting – Unanimous

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5. **Draft Open Space Infrastructure Policy, Amendment of Section 94 Contribution Plan No 5 - Local Open Space and Draft Section 94 Plan No 26 - Shire Wide/Regional Open Space**

GT1/S94/5 Pt1; GT1/S94/26 Pt1; GT1/S94/5-A Pt1; S94 – Section 94 Plan

59

Cr James

Cr Marshall

RESOLVED that this item be dealt with at Item 6 (Minute No 69 refers)

Voting – Unanimous

25. **Acquisition of Crown Land being Lot 1 in DP 1040811 at Bogangar - Les Burger Field**

Les Burger Field; 1190.1240

60

Cr James

Cr Marshall

RESOLVED that this Item be dealt with at Item 15 (Minute No 83 refers).

Voting - Unanimous

5. **Review of Environmental Factors 0054/2001PTV for a Road Widening and Relocation at Fingal Road**

R2060 Pt3; Fingal Road

61

Cr James

Cr Luff

RESOLVED that this item be dealt with later in the Meeting (Minute No 94 refers).

Voting - Unanimous

18. **Knox Park Markets - Food Vending Stalls**

Markets - Knox Park; Food Vending

62

Cr Marshall

Cr Carroll

RESOLVED that this item be dealt with at Item 22 (Minute No 91 refers).

Voting - Unanimous

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- 7. Review of Determination of Development Application 0028/2002S96 for an Amendment to Development Consent 0661/2001DA for a Three (3) Lot Industrial Subdivision at Lot 3 DP 717401, Lot 12 DP 1000868, No. 22 Lundberg Drive, Murwillumbah**

DA3120/100 Pt1; 3120.100

63

Cr James

Cr Luff

RESOLVED that this item be dealt with at Item 4 (Minute No 67 refers).

Voting - Unanimous

REPORTS THROUGH GENERAL MANAGER

REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

- 1. Development Application DA02/0584 for a Speed on Tweed - 2 Day Historic Racing Car Event on 21 and 22 September 2002 at Lot 167 DP 729468, Lot 2 DP 225827, Lot 46 DP 755724, Lot 164 DP 755724, Reserve 65931, No. 37 Queensland Road, Murwillumbah**

DA02/0584 Pt1; 4510.10

64

Cr Luff

Cr Marshall

RESOLVED that this matter be dealt with at Item 6b (Minute No 73 refers).

Voting - Unanimous

- 2. Development Application DA02/0495 for a Housing for the Aged at Lot 22 SP 62608, No. 22/2-4 Terranora Road, South Banora Point**

DA02/0495 Pt1; 5440.1500.22

65

Cr James

Cr Luff

RESOLVED that Development Application DA02/0495 for a housing for the aged at Lot 22 SP 62608, No. 22/2-4 Terranora Road South, Banora Point, be approved subject to the following conditions: -

GENERAL

- The development shall be completed in general accordance with the Statement of Environmental Effects and accompanying documentation prepared by B & P Surveys dated March 2002 and Plans Nos 1150 A01, A02 7 A03 prepared by Alex Milanovic & Associates and dated 24 October 2001, except where varied by these conditions.
- 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 the relevant provisions of AS1428- Design for Access and Mobility.

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3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
4. 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.
5. Written confirmation is to be provided prior to the issue of a Construction Certificate that satisfactory arrangements have been made with the waste collection contractor for the internal collection of all waste generated on-site, to be submitted and approved by Council's Director of Environment and Community Services.
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.
 - a) copies of compliance certificates relied upon
 - b) four (3) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
 - stormwater drainage
 - water supply works
 - sewerage works
 - landscaping works
 - sedimentation and erosion management plans
 - the approved Traffic Control Plan

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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7. No air-conditioning units are to be placed facing any neighbouring residential boundaries unless the noise emitted from any such air-conditioning unit has been assessed by a qualified acoustic engineer and if necessary acoustically treated in accordance with such assessment by the qualified acoustic engineer so as to ensure that the noise emitted from any such air conditioning units does not create or emit offensive noise in relation to any neighbouring residences at any time during operation.
8. The requirements and provisions of the acoustic Engineers Report prepared by Max Winders and Associates Reg. L7902/PAK and dated 27 February 2002 are to be implemented and complied with in relation to all aspects of the development.
9. All hand wash basins in food handling and preparation areas are to be fitted with a water temperature measuring device or other means to ensure that warm running water is supplied to the basin via a single spout without recourse to separate hot and cold water taps.
10. The handling and preparation of food for supply to patrons or occupants is to comply with the Listeria guidelines issued by the NSW Health Department.
11. The premises where food is handled or prepared for patrons or occupants is to be notified to NSW Health in accordance with the Registration and Notification requirements of the Food Standards Code as called into force by the Food Regulation 2001.
12. Food handling and preparation is to comply with all requirements of NSW Health.
13. All external artificial lighting is to be shielded where required to prevent light spillage onto neighbouring properties or any other area causing nuisance. Any such shielding shall be installed to the satisfaction of Council's Director Environment and Community Services.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

14. Section 94 Contributions

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

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

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

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

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|----|---|-------------|
| a. | Tweed Road Contribution Plan:
S94 Plan No. 4 (Version 4.0)
(Sector 2_4 Tweed South) | \$16,027.00 |
| b. | Open Space (Structured):
S94 Plan No. 5 | \$14,531.00 |
| c. | Open Space (Casual):
S94 Plan No. 5 | \$1,395.00 |
| d. | Shirewide Library Facilities:
S94 Plan No. 11 | \$20,248.00 |
| e. | Eviron Cemetery/Crematorium Facilities:
S94 Plan No. 13 | \$3,912.00 |
| f. | Extensions to Council Administration Offices
& Technical Support Facilities
S94 Plan No. 18 | \$11,775.00 |
15. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 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.

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

Water:	45 units (0.33ET per unit) @ \$4000	\$59,400.00
Sewer:	45 units (0.33ET per unit) @ \$3275	\$48,634.00

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 Management Act 2000 to be certified by an Accredited Certifier.

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16. A. Building work that involves residential building work (within the meaning of the *Home Building Act 1989*) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:
- i. in the case of work to be done by a licensee under that Act:
 - (i) has been informed in writing of the licensee's name and contractor licence number; and
 - (ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act; or
 - ii. in the case of work to be done by any other person:
 - (i) has been informed in writing of the person's name and owner-builder permit number, or
 - (ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner-builder work* in Section 29 of that Act,
- and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.
- B. A certificate purporting to be issued by an approved insurer under Part 6 of the *Home Building Act 1989* that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.
17. All roof waters are to be disposed of through properly jointed pipes to the street gutter, inter-allotment drainage, or elsewhere if so directed in the conditions of consent. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZ3500.3.2. Note: A detailed stormwater and drainage plan is to be submitted to and approved by the PCA prior to commencement of building works.
18. In accordance with the conclusions of the traffic noise assessment prepared by Max Winders & Associates proposed units 1 to 14 and 32 & 33 shall have a solid 1.0metre high balustrade constructed on the deck to shield traffic noise from the Pacific Highway.
19. 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*

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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*.
20. A letter clearly identifying the unconditional surrender of Development Consent 0967/2000DA by the Applicant is to be submitted prior to issue of a Construction Certificate.
21. Prior to the issue of a Construction Certificate NatHERS assessment ratings shall be submitted to the satisfaction of Council's Director Development Services for the additional 45 units.

PRIOR TO COMMENCEMENT OF WORK

22. 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.
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
 - 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.
 - c. Lot number.
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.
25. Prior to commencement of any works on the site a plumbing and drainage inspection fee of \$1,139 is to be submitted to Council.
26. 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.

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27. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced.
28. 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.

DURING CONSTRUCTION

29. 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).
30. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
31. 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.
32. Demolition of building existing on site is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.
33. 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
 - g. the fire protection of penetrations through any fire rated elements prior to covering
34. 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.

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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. Prominently displayed signs and symbols must be provided to identify for disabled persons all routes and areas where architectural barriers do not exist. Such access must comply with the requirements of Australian Standard AS 1428 Parts 1 and 2.
37. Tactile ground surface indicators for orientation of people with vision impairment are to be provided in accordance with Australian Standard AS1428.4
38. Disabled car parking spaces are to be provided at the rates provided for under Part D3.5 of the Building Code of Australia and constructed in accordance with Australian Standard AS2890.1.
39. A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material or concealed below ground level.

Should additional fill be proposed in the area of the sewer manhole Council's Engineering Services Division must be consulted and suitable arrangements made for the raising of the manhole to the satisfaction of Council's Manager Public Utilities.
40. 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.
41. 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.
42. 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.
43. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
44. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (*unless all the premises are occupied by a single household or firm as a residence or place of business*) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises.

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45. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
46. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.
47. 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.

48. A hose tap shall be provided adjacent to a grease arrester for cleaning purposes and shall be fitted with a RPZD for the purpose of back flow prevention.
49. 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.
50. 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.

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51. A concrete ribbon footpath 1.2 metres wide and 75 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Terranora Road. The compacted base is to achieve 95% of maximum dry density determined in accordance with AS1289 5.4.1 for a minimum 100mm depth. A full depth construction joint is to be provided at 6.0 metre intervals and 20 millimetre deep groove joints provided every 1.5 metres, the balance area to be graded to the kerb and turfed. The footpath is to have a 3% crossfall which must be attained at each side boundary. This may result in work to be undertaken on the footpath at adjoining properties which must not exceed 1:14 and must be reinstated with turf. The footpaving is to be located 800 millimetres from the property boundary. The concrete footpath gradient shall be parallel to the top of kerb for the full frontage of the site and maintained unvaried across the (any) driveway cross-section. An inspection of the formwork is to be arranged with Council's Engineering Services Division prior to concrete being placed.
52. Provision to be made for the designation of a durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.
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. 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.
55. 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.
56. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
57. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
58. The burning of builders waste on site by open fire is prohibited.
59. Pre-treatment devices must be serviced by a Council approved waste contractor. The applicant will be required to enter into a service agreement with this waste contractor. Pre-treatment device service frequency will be approved by Councils Manager Water.

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60. A trade waste agreement will be issued and a permit number allocated once the device has been installed, inspected and Council has received a copy of the Waste Contractor's Service Agreement
61. A 2.0 metre wide concrete path is to be constructed from the driveway to the pedestrian crossing at the intersection of Terranora Road and the Pacific Highway and along the Pacific Highway from Terranora Road to the shops and bus stop. All Pram ramps at the intersection of Terranora Road and Pacific Highway intersection are required to be upgraded to the current Tweed Shire Council standard.

Detailed plans in this regard are to be prepared and submitted to Council's Director Engineering Services prior to commencement of works, which must be completed prior to occupation of any unit.

62. 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 2 and 3 buildings and Class 4 part of a building in accordance with the provisions of Specification E2.2a of the Building Code of Australia. Smoke alarms must be installed:
 - (i) within each sole occupancy unit, located on or near the ceiling in any storey -
 - (A) containing bedrooms -
 - (aa) between each part of the sole occupancy unit containing bedrooms and the remainder of the sole occupancy unit; and
 - (bb) where bedrooms are served by a hallway, in that hallway; and
 - (B) not containing any bedrooms, in egress paths; and
 - (ii) in a building not protected with a sprinkler system, in public corridors and other internal public spaces, located in accordance with the requirements for smoke detectors in AS 1670 and connected to activate a **building occupant warning system** in accordance with Specification 2.2a(6) of the Building Code of Australia which states:

A building occupant warning system must comply with Clause 8.7 of AS 1670 to sound through all occupied areas except-

- a) in a Class 2 and 3 building or Class 4 part provided with a smoke alarm system:
 - (i) the sound pressure level need not be measured within a sole occupancy unit if a level of not less than 85dB(A) is provided at the door providing access to the sole occupancy unit; and
 - (ii) the inbuilt sounders of the smoke alarms may be used to wholly or partially meet the requirements.

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.

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PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

63. 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.
64. 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).
65. 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.
66. 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.

USE

67. All food handling areas and persons engaged in the preparation and handling of food supplied to patrons or occupants are to comply with the provisions of the Food Act and the provisions of the Food Standards Code as called into force by the Food Regulation 2001.
68. Council's Building Services Unit shall need to be consulted regarding any proposed use of the existing dining areas of the restaurant for purposes other than dining i.e public entertainment, to ensure compliance with the Local Government Act and Building Code of Australia.
69. All existing essential fire safety measures are to be certified by a qualified person to the effect that each of the fire safety measures has been assessed and were found to be performing to a standard not less than that to which it was originally designed.
70. 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.

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

71. 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.

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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.

Voting - Unanimous

3. Draft Tweed Local Environmental Plan 2000, Amendment No 24 - Housekeeping Stage 1 (Black Rocks Anomaly)

GT1/LEP/2000/24 Pt1; LEP - Housekeeping Stage 1

66

Cr Marshall

Cr Luff

RESOLVED that Council endorses draft Tweed Local Environmental Plan 2000, Amendment No 24 and requests the Minister for Planning to make the Plan in accordance with Section 70 of the Environmental Planning and Assessment Act 1979.

Voting - Unanimous

RETURN TO MEETING

Cr Youngblutt returned to the meeting.

4. Development Application 0028/2002S96 for an Amendment to Development Consent 0661/2001DA for a Three (3) Lot Industrial Subdivision at Lot 3 DP 717401, Lot 12 DP 1000868, No. 22 Lundberg Drive, Murwillumbah

DA3120/100 Pt1; 3120.100

Cr James

Cr Luff

PROPOSED that the application to review the determination of the Development Application 0028/2002S96 for an amendment to Development Consent 0661/2001DA for a three (3) lot industrial subdivision at Lot 3 DP 717401, Lot 12 DP 1000868, No. 12 Lundberg Drive, Murwillumbah be refused.

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

Voting For

Cr Carroll
Cr Davidson
Cr James
Cr Luff
Cr Marshall

Voting Against

Cr Polglase
Cr Beck
Cr Brinsmead
Cr Lawrie
Cr Youngblutt

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67

Cr Brinsmead

Cr Beck

RESOLVED that the Director Development Services brings back a report presenting options to Council for consideration.

Voting For

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

Voting Against

Cr James
Cr Luff
Cr Marshall

5. Draft Tweed Local Environmental Plan 2000, Amendment No 33 - Lot 4, DP 872479, Philp Parade, Tweed Heads South

GT1/LEP/2000/33 Pt1; LEP - Philp Pde - 33

68

Cr Luff

Cr Lawrie

RESOLVED that:

1. In accordance with Section 54 of the Environmental Planning and Assessment Act 1979, Council prepares a draft Local Environmental Plan to rezone Lot 4, DP872470, Philp Parade, Tweed Heads, from 6(a) Open Space to 6(b) Recreation.
2. The Director General of PlanningNSW be requested to waive the requirement for a Local Environmental Study given the minor nature of the proposed LEP Amendment.

Voting - Unanimous

6. Draft Open Space Infrastructure Policy, Amendment of Section 94 Contribution Plan No 5 - Local Open Space and Draft Section 94 Plan No 26 - Shire Wide/Regional Open Space

GT1/S94/5 Pt1; GT1/S94/26 Pt1; GT1/S94/5-A Pt1; S94

Cr Marshall

Cr James

PROPOSED that Council:

1. Adopts the Section 94 Developer Contributions Plan No 5 and the Section 94 Developer Contributions Plan No 26 as placed on public exhibition;
2. Gives public notice of its decision in accordance with the Environmental Planning and Assessment Regulations 2000, in the Tweed Link, specifying that the Contribution Plans come into effect on the date of the notice; and
3. Adopts the Open Space Infrastructure Policy as exhibited.

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AMENDMENT

69

Cr Lawrie

Cr Youngblutt

RESOLVED that this item be deferred so that “like” information on a shirewide basis is brought before Council for further consideration.

The Amendment was **Carried** on the Casting vote of the Mayor.

Voting For

Cr Polglase
Cr Beck
Cr Brinsmead
Cr Lawrie
Cr Youngblutt

Voting Against

Cr Carroll
Cr Davidson
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 Luff
Cr Youngblutt

Voting Against

Cr Carroll
Cr James
Cr Marshall

LATE ITEM

70

Cr Marshall

Cr Luff

RESOLVED that Items 6a and 6b being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

Voting - Unanimous

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- 6a. Development Application 0023/2002DA - Two (2) Eighteen Storey Residential / Tourist / Commercial Buildings - The Corner of Wharf and Bay Streets, Tweed Heads – Latitude 28**

DA4040/100 Pt7

71

Cr Davidson

Cr Beck

RESOLVED that:-

1. The Director-General of PlanningNSW be advised that Council supports approval of Development Application 0023/2002DA for two (2) eighteen storey residential/tourist/commercial buildings on the corner of Wharf and Bay Streets, Tweed Heads in its submitted form and is satisfied that the State Environmental Planning Policy No 1 objections to the 50m AHD height restriction in Clause 16 of Tweed Local Environmental Plan 2000 and Clause 32B of the North Coast Regional Environmental Plan in relation to overshadowing of foreshore reserves are justified.
2. Council fully supports the Mayor and General Manager in strongly representing the above position at the meeting with PlanningNSW on Wednesday, 24 July 2002.

AMENDMENT

Cr Luff

Cr Carroll

PROPOSED that this item be deferred until discussions have been held with the Director General of PlanningNSW.

72

Cr Luff

Cr Brinsmead

RESOLVED that an extension of 2 minutes be granted to Cr James.

Voting - Unanimous

The Amendment was **Lost**

Voting For

Cr Carroll

Cr James

Cr Luff

Voting Against

Cr Polglase

Cr Beck

Cr Brinsmead

Cr Davidson

Cr Lawrie

Cr Marshall

Cr Youngblutt

The Motion was **Carried**

Minutes - Meeting of Tweed Shire Council

Voting For

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

Voting Against

Cr Carroll
Cr James
Cr Luff

ADJOURNMENT OF MEETING

The meeting was adjourned for 5 minutes to allow Councillors the opportunity to read late addendum report 6b.

RESUMPTION OF MEETING

The Meeting resumed to consider Item 6b.

- 6b. Development Application DA02/0584 for a "Speed on Tweed" - Two Day Historical Racing Car Event on 21 and 22 September 2002 at Lot 167 DP 729468, Lot 2 DP 225827, Lot 46 DP 755724, Lot 164 DP 755724 and Res 65931 No 37 Queensland Road, Murwillumbah**

DA02/0584 Pt1; 4510.10

73

Cr Beck

Cr Marshall

RESOLVED that Development Application DA02/0584 for a Speed on Tweed - 2-day historic racing car event on 21 & 22 September 2002 at Lot 167 DP 729468, Lot 2 DP 225827, Lot 46 DP 755724, Lot 164 DP 755724, Res 65931, No. 37 Queensland Road Murwillumbah be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in general accordance with the 'Statement of Environmental Effects' and associated material and plans relating to the Speed on Tweed event as submitted to Council, except where varied by these conditions.
2. Approval of the NSW Police, Ambulance and Fire Service is to be obtained and evidentiary material of such provided to Council's Director - Development Services no less than one (1) week prior to the event.
3. Approval of all relevant motoring associations / organisations is to be obtained and evidentiary material of such provided to Council's Director - Development Services no less than one (1) week prior to the event.
4. No less than one (1) emergency fire rescue and one (1) ambulance vehicle is to be present when racing is in progress, at any time.

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5. The event the subject of this development consent is to be advertised one week prior to the event as broadly as is practically possible within the region via local news papers and is to provide clear and concise details of the road closures, including road name, locality, days, times and purposes.
6. The temporary closures of Mooball Street from Murwillumbah Street to Rous Street, Rous Street from Mooball Street to Waterloo Street, Waterloo Street to Queensland Road, Showground Gate to Murwillumbah Street and Murwillumbah Street from Queensland Road to Mooball Street are subject to:-
 - A Traffic Management Plan detailing barriers, road blocks, detour signage and traffic controllers and its implementation after approval, being submitted to and approved by Council's Director - Engineering Services, and
 - Documentary evidence of Public Liability Insurance being submitted to Council's Director - Development Services no less than one (1) week prior to the event.
7. The Regions' sugar milling cooperative is to be notified in writing of the proposed event and associated road closures no less than three (3) weeks prior to the event.

DURING CONSTRUCTION

8. All practicable measures must be taken to prevent and minimise harm to the environment and for residents as a result of the construction, operation and, where relevant, the decommissioning of the development.

USE

9. All measures shall be undertaken to ensure the safe passage of all persons in the "pits" / waiting and storage areas and hazard mitigation measures shall be established in the vicinity of the storage of petrochemicals or other such flammable material.
10. All necessary measures shall be undertaken to ensure that crowd control and management is maintained at all times and that sufficient numbers of officials are engaged for this purpose.
11. All reasonable attempts shall be made to accommodate vehicular access to residents directly affected by the proposal who require access for work purposes, in particular No.89 Ewing Street, Murwillumbah.
12. In the event that a State Emergency vehicle requires access via the designated racecourse immediate access shall be provided. If the event is in process every effort shall be made to cease the racing in order to provide safe passage.
13. All necessary measures shall be implemented to ensure that non-resident vehicles do not have access to Waterloo Street causing traffic/pedestrian conflict when the road block on the southern end is in place.
14. An Event Management Plan shall be submitted, to the satisfaction of the Director Environment & Community Services, one (1) month prior to the commencement of

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the event. The Plan shall address the supply, location and management of ablution facilities and solid waste, contact details

15. A Spillage Management Plan for waste oils shall be compiled and implemented on-site. The Plan shall detail requirements for satisfactory spillage clean-up of stored oils and road spill incidents.
16. An Emergency Management Plan shall be submitted, to the satisfaction of the DECS, one month (1) prior to the commencement of the event. The Plan shall: include layout maps locating incident control centre, first aid, fire and rescue and ambulance stations, access and egress routes, pedestrian isolation barriers and seating; contact details of relevant officials, police, ambulance and fire and rescue services; public information/direction facilities for location of public first aid facilities, security, alcohol permissibility and complaints hotline. A copy of the CAMS and Commissioner of Police approvals shall form part of the Plan. The Plan shall be provided to Emergency Services one week prior to the event.
17. A community liaison officer and community liaison contact phone number shall be available on a 24-hour basis on the days of the event (including 24 hours pre- and post- event). Details of the name of the contact person and the contact telephone number must be locally advertised a minimum of fourteen (14) days prior to the event and local, directly affected, residents notified by means of an individual letter drop to each household.
18. Further approval is required for the installation and operation of any public address system.
19. No amusement devices are permitted without the prior approval of the DECS.
20. Temporary food premises are permitted provided they comply with Council's code for the sale of food at one day events.
21. One (1) month prior to the commencement of the event information shall be submitted, to the satisfaction of the DECS, locating the temporary camping ground, indicating expected camper numbers and detailing appropriate facilities.
22. Officials, competitors and immediate family members shall be the only persons to utilise the camping ground.
23. NSW WorkCover requirements shall be implemented for the storage of any hazardous chemicals.

Voting - Unanimous

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REPORTS FROM DIRECTOR CORPORATE SERVICES

7. Report of an Investigation under Section 430 of the Local Government Act 1993 Regarding Tweed Shire Council Second Instalment on Seaside City and Related Matters

GT1/LEP/2000/20 Pt4; GT1/LEP/2000/3 Pt6; LEP - Kings Forest; LEP - Seaside City

74

Cr Davidson

Cr Marshall

RESOLVED that:-

1. Council notes the following as resolved upon at Meeting 29 May 2002 in regard of the Report of Investigation – Part 1 - Resolved that Council responds to the recommendation by Mr Bulford, in view of the documents presented to the Council by Cr Beck, Cr Beck has had no conflict of interest in the matter raised by Mr Bulford and therefore has no case to answer.
2. Council notes the following as resolved upon at Meeting 29 May 2002 in regard of the Report of Investigation – Part 1 - Resolved that Council advises the Minister for Local Government and the Director General, Department of Local Government that the proposed courses of action outlined in the recommendations, with the exception of recommendation 1, be implemented by Council.

- a. That Council implements a policy that limits Councillors to attend meetings with developers, their representatives and or consultants, with Council staff in attendance, to discuss the “big picture” matters and perhaps Council’s initial attitude to the prospective project.

Records/Minutes to record attendances, scope of discussions and outcomes, to be provided to Council.

Such meetings are to be arranged with the knowledge of all Councillors and should be arranged at times to maximise the number of Councillors attending. The most suitable arrangements will be to utilise Council’s current Workshop arrangements.

Consideration of the issues being dealt with as part of major developments may require the arrangement, by the General Manager, of a Workshop with Councillors.

Council at its meeting of 5 June 2002 rescinded the motion – Council Meeting Policy re: attendance of Councillors at meetings with developers.

- b. Council will continue with the relevant planning procedures towards the draft LEP for Kings Forest as already taken to the stage of public exhibition of the LES for Kings Forest and the draft LEP.

In accordance with the recommendation the matter will be taken from that point and will not abandon the public exhibition process and the documents thus exhibited.

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The exhibited LES and draft LEP will retain that status and be matters for consideration under section 79C of the Environmental Planning & Assessment Act for the purposes of determining any development application.

- c. That Council modifies Resolution 1204 of the Minutes of Council Meeting held 20 June 2001 being

“Resolved that Council will not accept financial responsibility for any planning consultant’s fee unless prior approval has been obtained and recorded and that a written brief must have been issued”

to read:

“That Council requires that planning consultants be engaged in accordance with Council’s Procurement Policy adopted by Council at meeting held 6 February 2002, and that each engagement must be based upon a written brief.”

- d. The draft Management Plan and Budget 2002/2005 has provision for two (2) additional planning staff.

The General Manager requires the appropriate Director to develop documentation for Council’s consideration to clarify the strategic planning approach to the coastal areas to identify lands not capable of being developed or utilised for urban development.

That this action be specified within the sustainability goals section of the draft Management Plan.

- e. The General Manager to ensure that the Directors liaise to incorporate within the Management Plan an appropriate planning strategy incorporating environmental, social and economic strategy planning aimed at achieving ecologically sustainable development. Reporting to Council to be on a quarterly basis in accordance with section 407 of the Local Government Act.
3. That Council resolves the following in regard of the Report of Investigation – Part 2:-
- a. To note that recommendation 1, including 1a and 1b has been resolved upon by Council as reported to the Minister for Local Government and the Director General, Department of Local Government as a result of consideration of Part 1 of the Report of Investigation.
- b. Require the General Manager to ensure, that in liaison with DUAP (PlanningNSW) that procedures be developed regarding the selection of consultants to act on its behalf in respect of the carrying out of environmental studies and the preparation of any LES or draft LEP for the purposes of Section 54 and 57 of the EPA Act that the following is to form a basis for the procedure:-

Ensuring that any consultation, with the developer, proponent, or owner of lands the subject of a rezoning that needs such a study, LES or LEP, as to which consultant is to be appointed by Council for the purpose, is conducted in such a way that secures the public interest in an open and transparent process and in an appropriate process in terms of examining and assuring relevant planning and environmental issues are duly met.

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Any disclosure to such persons of information as to the bids or quotes or tenders that might have been submitted to Council by prospective consultants, and any such consultation, should be made or undertaken in such a way as to ensure that Council's required independence, prerogative and role in choosing and appointing such any such consultant is not compromised.

While it is accepted that any such person who is to contribute to the cost of engaging that consultant for the purpose has a legitimate interest in ensuring that the cost he or she is being asked to pay is an appropriate and reasonable cost, this does not mean that the person in question should have a potential or actual veto or final say as to the choice of consultant (as opposed to a de facto say affecting the outcome). If the person or organization/company asked to contribute to the cost declines to do so, or to provide a contribution to the extent Council considers appropriate, then Council has the option of either discontinuing the process or giving it a low priority, or of proceeding with and paying for the process itself out of its own funds, and the developer or whoever must accept the consequences of this.

Consideration is to be given, where there is properly and reasonably to be consultation as to the prospective consultants to be asked to bid or tender or quote or express an interest, to the person being informed and consulted only as to the identity of the prospective candidates in that regard and to the person, organization/company being asked to agree to that list of candidates.

PlanningNSW is to be involved in the process, whether pursuant to its powers under section 57 of the EPA Act or otherwise, however their role or involvement in respect of the choice of prospective consultant be limited in the same way, that is to say, PlanningNSW may be consulted and its agreement secured as to the list of appropriate candidates, but should not otherwise be involved in deciding who it is that is to be awarded the contract and appointed as consultant to Council.

Where there is reasonable and properly to consult as to the choice of consultant to be awarded the contract and appointed as consultant to Council, all that is disclosed to the person asked to contribute to or pay the cost of engaging that consultant is the identity of Council's preferred candidate and the range of other quotes or tenders, without disclosing the intervening or particular amounts quoted or tendered by other individual prospective consultants and without disclosing the names of those consultants.

Once any such disclosure has been made no further amendment to the specification or brief against which prospective consultants have been asked to quote of tender should be entertained or allowed under any circumstances.

All briefs or specifications issued to consultants to be engaged by Council should include a clause that requires the consultants to provide an undertaking or representation in writing to Council that no actual or potential conflict of interest exists or is likely to arise, or in either such case be seen or be reasonably likely to be seen to do so, in the performance of the proposed work to be undertaken by the consultants, and that forthwith upon any such conflict arising during the course of

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undertaking such work the consultants shall disclose the same in writing to Council, and seek Council's advice before undertaking any further work.

- c. To note that Council have previously resolved on recommendation 10 (Part 2) as relating to Part 1 as detailed in 2b above.
- d. To note that Council has in confidential Meeting of Council held 17 July 2002 at Item 2a resolved:-

That Council:-

1. *Authorises the General Manager, in conjunction with Tony Smith (Stacks the Law Firm), to negotiate finalisation of the contract with the McInnes Group and any outstanding payments.*
2. *Forwards copies of the legal advice on Seaside City to the Director-General of the Department of Local Government and the Director-General of PlanningNSW.*
3. *Receives and notes the legal advice from Stacks the Law Firm.*
4. *Authorises the Mayor and General Manager to have discussions with the Directors General of Planning and Local Government to examine processes that would allow further consideration of the application for rezoning.*

To examine processes that would allow further consideration of the application for rezoning.

This relates to recommendations 11, 12 and 13 as well as 14, 15, 16 and 17.

- e. To note that recommendation 18, in reference to the Local Government Act 1993 Section 435, Part (1)(b) provides for the Departmental Representative to give consideration to surcharging given that at Part (3) it is the appropriate authority.
- f. To note that in regard of Recommendation 19 that Council has resolved on this matter and advised the Minister for Local Government and the Director General, Department of Local Government. Item 1 of this resolution refers.
- g. That Council require Cr. Brinsmead to furnish to Council within 21 days, advice as to his participation in and voting of his censure motion of 4 April 2001, having regard to Council's Code of Conduct.

Council is to advise the Minister for Local Government and the Director General, Department of Local Government once an opinion has been formed.

- h. That Council require the General Manager to carry out an initial investigation and report back to Council at Meeting 21 August relating to any apparent breach of Council's Confidentiality and Section 664 of the Local Government Act 1993. Recommendation 21 refers.

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Council is to advise the Minister for Local Government and the Director General, Department of Local Government once an opinion has been formed.

- i. Note that Council, in response to Part 1 have modified resolution (Minute 1204, Meeting 20 June 2001) as detailed in 2c above. Recommendation 22 refers.
 - j. Note the recommendation to the Director General, Department of Local Government. Recommendation 23 refers.
 - k. Note the Council resolution to recommendation 24 has been provided as response to Part 1, see 2d above.
 - l. Note the Council resolution to recommendation 25 has been provided as response to Part 1, see 2e above.
4. Note that at Ordinary Meeting 5 June 2002 Council resolved:

“that Council resolution at Minute No 345 in relation to Item 3 Orders of the Day of the Meeting held Wednesday 17 October 2001 being:-

“.....that pursuant of the Section 232 of the Local Government Act defining that the role of a Councillor “as a member of the governing body of the Council” is “to direct and control the affairs of Council,” “to play a key role in the creation and review of the Council’s policies,” “to review the performance of the Council and delivery of services,” “to provide leadership and guidance to the community,; and “to facilitate communication between the community and the Council” pursuant also with the General Manager’s initiatives already undertaken to promote a better flow of information and communication between Councillors and staff: and pursuant of Council’s policy to foster a transparent and open process in the planning and development process:

Council clarifies its policy and its attitude in respect to meetings or talks with business persons and developers doing business and proposing to do business with Council, as follows:

- 1. It is appropriate that the Mayor and/or any other Councillor attend any meeting of the Development Assessment Panel.*
- 2. It is appropriate that the Mayor and/or any other Councillor should, upon the request of a development applicant (or any other party doing or proposing to do business with Council), meet with such an applicant in talks with relevant Council officers.*
- 3. It is appropriate that the Mayor and/or any other Councillor should, if the need arises, initiate and be present at talks between a development applicant (or any other party doing or proposing to do business with Council) and relevant Council officers.*
- 4. It is appropriate that the Mayor and/or any other Councillor attend talks with any applicant (or any person doing business with Council) and Council officers at the request of Council officers.*

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5. *The Mayor should liaise with the General Manager in all matters involving the Council staff."*

was rescinded."

ADJOURNMENT OF MEETING

Adjournment for dinner at 6.30pm.

RESUMPTION OF MEETING

The Meeting resumed at 7.25pm.

75

Cr Luff

Cr Brinsmead

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

Voting - Unanimous

The Motion was **Carried**

Voting For

Cr Polglase
Cr Carroll
Cr Davidson
Cr James
Cr Luff
Cr Marshall
Cr Youngblutt

Voting Against

Cr Beck
Cr Brinsmead
Cr Lawrie

8. **Conference - Beyond the Boundaries - "Solutions for Success", 4-5 September 2002**

Councillors - Conferences

76

Cr James

Cr Luff

RESOLVED that:

1. Council authorises the attendance of any Councillor/s to the Beyond the Boundaries "Solutions for Success" Conference to be held in Mandurah, Western Australia from Wednesday, 4 September to Thursday, 5 September 2002.
2. The Mayor's Secretary arranges the registration of interested Councillors.

Voting - Unanimous

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9. 2002/2003 Budget - Voting of Expenditure

Budget

77

Cr Davidson

Cr Lawrie

RESOLVED that Council approves and votes \$114,090,478.00 expenditure for the 2002/03 Budget.

Voting - Unanimous

10. Union Picnic Day 2002

Union Matters

78

Cr Marshall

Cr Davidson

RESOLVED that:-

1. Council agrees to hold 2002 Union Picnic Day on Friday, 8 November 2002;
2. Council offices will remain open with minimal staff on that day.

Voting - Unanimous

11. Amendment to the Local Government Act 1993

DW682614; Local Government Department - Circulars

79

Cr Luff

Cr Marshall

RESOLVED that this report be received and noted.

Voting - Unanimous

12. Monthly Investment Report for Period Ending 30 June 2002

Monthly Investment Report

80

Cr Davidson

Cr Marshall

RESOLVED that this report be received and noted.

Voting - Unanimous

REPORTS FROM DIRECTOR ENGINEERING SERVICES

13. Revision / Naming of Localities

Geographical Names Board

81

Cr Marshall

Cr Davidson

RESOLVED that

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1. Council approves the name of the proposed locality as "South Kingscliff"; and
2. Application be made to the Geographical Names Board of NSW for its approval to name that locality "South Kingscliff", and to display the name of the locality for public comment and ultimate gazettal.

Voting - Unanimous

14. **Acquisition of SRA Land at South Murwillumbah - Formerly being Lot 124 in DP 915277**

DA02/0643 Pt1; 4040.5165

82

Cr Marshall

Cr Youngblutt

RESOLVED that:-

1. Council approves the purchase of the proposed Lot from State Rail for the sum of \$1,600.00 plus pay administrative and legal costs incurred by State Rail in this transaction;
2. The land be classified as "operational"; and
3. All necessary documentation be endorsed under the Common Seal of Council.

Voting - Unanimous

15. **Acquisition of Crown Land being Lot 1 in DP 1040811 at Bogangar - Les Burger Field**

Les Burger Field - 1190.1240; Valuations

83

Cr James

Cr Luff

RESOLVED that Council seeks the assistance of the member for Tweed, Neville Newell, and the upper house member, the Hon Dr Brian Pezutti, to make representations on Council's behalf to the Minister for Land and Water conservation to create a reserve for public recreation over Lot 1 DP 1040811 and to give Tweed Shire Council care and control of the reserve in exchange for Council's support to the excision of the northern and western parts of existing reserve R91482 (Lot 519) that consist of native vegetation and the addition of the excised area to Cudgen Nature Reserve.

Voting - Unanimous

16. **RTA Road Related Works Program 2002/2003**

Govt Grants - Roads; Works Program - 2002/2003

84

Cr Luff

Cr Davidson

RESOLVED that:-

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1. The grants be accepted under the usual terms and conditions.
2. Council votes the expenditure.

Voting - Unanimous

17. **Cancellation of Easement for Drainage 5 Wide at Shallow Bay Drive, Tweed Heads South**

GS4/98/33 Pt6; Easements

85

Cr Marshall

Cr Luff

RESOLVED that:-

1. Council approves the cancellation of the Easement for Drainage 5 wide created in DP 1008592; and
2. All necessary documentation be endorsed and executed under the Common Seal of Council.

Voting - Unanimous

18. **Cancellation of Right of Footway
Easements - Shallow Bay Drive, Tweed Heads South; Easements; Shallow Bay Dr**

86

Cr Marshall

Cr Luff

RESOLVED that Council:-

1. Approves the cancellation of the Right of Footway created in DP 1008592;
2. Approves the creation of Right of Footway within Lot 1 in DP 1008592 in a plan creating the Right of Footway; and
3. Executes and endorses all necessary documentation under the Common Seal of Council.

Voting - Unanimous

19. **Power of Consent to Enter - Local Government Act 1993
Water Directorate; Consent to Enter**

87

Cr Davidson

Cr Beck

RESOLVED that this report be received and noted.

Voting - Unanimous

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REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

20. Desexing of Cats and Dogs

Companion Animals Committee

88

Cr Youngblutt

Cr Lawrie

RESOLVED that Council works with the Friends of the Pound over the next 12 months towards a policy requiring desexing of animals sold from the pound and report again to Council at the end of that period.

89

Cr Davidson

Cr Lawrie

RESOLVED that an extension of 3 minutes be granted to Cr Youngblutt.

Voting - Unanimous

The Motion was **Carried**

Voting - Unanimous

21. Grant of \$12,000 - Youth Safety Package

Youth Matters

90

Cr Beck

Cr Luff

RESOLVED that Council:

1. Accepts the \$12,000 grant for the Youth Safety Package.
2. Votes the expenditure accordingly.
3. Completes all necessary document under the Common Seal of Council.

Voting - Unanimous

22. Markets on Public Land - Sale of Food and Drinks

Markets - Kingscliff

91

Cr James

Cr Luff

RESOLVED that Council maintains the Policy provision which permits two (2) food stalls only at the markets at Kingscliff, and the request for an additional food stall be denied.

Voting - Unanimous

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LATE ITEM

92

Cr Carroll

Cr Marshall

RESOLVED that Item 22a being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

Voting - Unanimous

22a. Addendum to Markets on Public Land - Sale of Food and Drinks (Item 22)

Markets - Knox Park

93

Cr Carroll

Cr Marshall

RESOLVED that Council varies its Policy provision for two (2) food stalls only in relation to the Knox Park markets to four (4) stalls) only in recognition that:-

1. The Market operates in a wider Murwillumbah environment where customer choice in purchasing food and refreshments on a weekend is limited.
2. The application has the support of the local business community including the Murwillumbah Business Chamber and individual businesses.

Voting - Unanimous

REPORTS FROM COMMITTEES/WORKING GROUPS

Nil.

ITEM DEFERRED FROM MEETING 3 JULY 2002

5. Review of Environmental Factors 0054/2001PTV for a Road Widening and Relocation at Fingal Road

R2060 Pt3; Fingal Road

94

Cr Marshall

Cr Davidson

RESOLVED that Development Application 0054/2001PTV for a road widening and relocation at Fingal Road be approved subject to the following conditions: -

1. The development shall be completed in general accordance with the plans and documents submitted with the application for Stage 2 only, except where varied by these conditions.
2. Prior to commencement of work all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Director, Development Services. Erosion and sedimentation control devices shall be installed in accordance with the publication, "Managing Urban Stormwater - Soil and

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Construction", prepared by the NSW Department of Housing. All erosion and sedimentation controls shall be maintained throughout the period of construction.

3. 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.
4. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
5. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 5.00 pm Monday to Friday and no work on Saturdays or Sundays.
6. 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.
7. Prior to commencement of work a permit is to be obtained from NSW Fisheries pursuant to the Fisheries Management Act, 1994.
8. Measures shall be undertaken to ensure that no river bank disturbance or erosion occurs during works.
9. In the event that any relics or the like being discovered during the construction stage all work on the affected area (and its immediate surrounds) is to cease, and consultation is to occur with National Parks and Wildlife Service and the Tweed Byron Local Aboriginal Council. Work is not to recommence until authorised by National Parks and Wildlife Services.
10. At any time deemed necessary by the Director of Environment and Community Services road traffic noise, received by residents adjacent to the subject works, shall be monitored by suitably qualified person and reported to Council for consideration.
11. A landscaping vegetation management plan shall be prepared for the Fingal Road Reserve. Such shall include a plant species list and plant groupings appropriate to the locality. The revegetation works shall commence for each Stage following the completion of the road works. Waste disposal facilities should be incorporated into the landscape areas.

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12. 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.
13. 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.
14. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
15. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.
16. 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.

Voting - Unanimous

ORDERS OF THE DAY

1. Tweed River - Wharves

Notice of Motion; Area 5 - Twd River; Wharfs – Wharves; DW683856

Cr Youngblutt

Cr Davidson

PROPOSED that:-

1. Council investigates the feasibility of wharves at Tumbulgum, Chinderah and Tweed Heads similar to the Heritage Wharf in Murwillumbah.
2. Council fully supports and endorses the Tweed River Committee to seek suitable funding for the continued progress of the Heritage Wharf program on the Tweed River, to initially include wharves at Condong, Tumbulgum and Chinderah.

AMENDMENT

95

Cr Marshall

Cr James

RESOLVED that Council fully supports and endorses the Tweed River Committee to seek suitable funding for the continued progress of the Heritage Wharf program on the Tweed River, to initially include wharves at Condong, Tumbulgum and Chinderah.

The Amendment was **Carried**

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Voting For

Cr Beck
Cr Brinsmead
Cr Carroll
Cr James
Cr Luff
Cr Marshall

Voting Against

Cr Polglase
Cr Davidson
Cr Lawrie
Cr Youngblutt

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

Voting - Unanimous

2. Water Supply

Notice of Motion; Water Supply – General; DW683854

96

Cr Polglase

Cr Beck

RESOLVED that this item be deferred to a meeting where Cr Boyd could be present to speak to his Motion.

Voting - Unanimous

3. Tweed Heads Civic Centre

Notice of Motion; Southern Cross Uni; Civic Centre - Tweed Heads; DW683855

97

Cr Polglase

Cr Beck

RESOLVED that this item be deferred to a meeting where Cr Boyd could be present to speak to his Motion.

Voting – Unanimous

4. Local Government Inquiries

Notice of Motion; Legal - Matters; Corruption

Cr Beck

Cr Brinsmead

PROPOSED that:-

1. This Council writes to the Local Government Shires Association to request that they make representations to the Minister for Local Government so that in any future Local Government Inquiry, evidence must be sworn and that evidence be taped or a stenographer takes notes.
2. The person being questioned be asked if they require a legal representative or witness not from Local Government to be present.
3. The transcript of evidence be given to the person the following day after being interviewed.

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

Voting For

Cr Beck
Cr Brinsmead
Cr Lawrie
Cr Marshall
Cr Youngblutt

Voting Against

Cr Polglase
Cr Carroll
Cr Davidson
Cr James
Cr Luff

ITEM TRANSFERRED FROM THE CONFIDENTIAL AGENDA

2. **Class 1 Appeal in the Land and Environment Court of New South Wales in the matter of Council's determination of DA02/0474 for a brothel establishment at Lot 1 DP 610969, No. 57-61 Ourimbah Road Tweed Heads**

DA02/0474 Pt1; 3970.50

98

Cr Lawrie

Cr Youngblutt

RESOLVED that Council defends this Appeal and seeks the approval of the Court to have this Appeal heard in the Shire.

Voting For

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

Voting Against

Cr James
Cr Luff

QUESTION TIME

Opening of the Motorway

Pacific Motorway – Yelgun to Chinderah

Cr Marshall

Enquired whether Council had received an invitation to the Opening of the Motorway.

The Mayor and General Manager responded that no official invitation had been received but indicated that an invitation to the community had been advertised in the media.

COMMITTEE OF THE WHOLE

99

Cr Youngblutt

Cr Marshall

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

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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:-

LATE ITEM

C18

That Item 2a being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

Voting - Unanimous

2a. Seaside City – Planning Processes, and Finalisation of Contract with the McInnes Group

GT1/LEP/2000/3 Pt6; LEP – Seaside City

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

(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

C19

That Council:-

1. Authorises the General Manager, in conjunction with Tony Smith (Stacks the Law Firm), to negotiate finalisation of the contract with the McInnes Group and any outstanding payments.
2. Forwards copies of the legal advice on Seaside City to the Director-General of the Department of Local Government and the Director-General of PlanningNSW.
3. Receives and notes the legal advice from Stacks the Law Firm.
4. Authorises the Mayor and General Manager to have discussions with the Directors General of Planning and Local Government to examine processes that would allow further consideration of the application for rezoning.

Voting For

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

Voting Against

Cr James
Cr Luff

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C20

That the Committee resumes in Open Council.

Voting - Unanimous

REPORTS THROUGH GENERAL MANAGER IN COMMITTEE

REPORTS FROM DIRECTOR DEVELOPMENT SERVICES IN COMMITTEE

1. **Works Illegally Commenced for Deferred Commencement Consent 0635/2001DA - Installation of a Pontoon at Lot 20 SP 63869 Gollan Drive, Tweed Heads West DA2270/610-20 Pt1; 2270.610.20; Development - Illegal**

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

(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

C24

That the matter be referred to Council's Solicitors in order to commence Class 4 actions in the Land and Environment Court.

Voting – Unanimous

Voting For

Cr Polglase
Cr Carroll
Cr Davidson
Cr James
Cr Lawrie
Cr Luff
Cr Marshall

Voting Against

Cr Beck
Cr Brinsmead
Cr Youngblutt

2. **Class 1 Appeal in the Land and Environment Court of New South Wales in the matter of Council's determination of DA02/0474 for a brothel establishment at Lot 1 DP 610969, No. 57-61 Ourimbah Road Tweed Heads**

DA02/0474 Pt1; 3970.50

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

(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

This item was dealt with in Open Council at Minute No 98.

REPORTS FROM DIRECTOR CORPORATE SERVICES IN COMMITTEE

- 2a. **Seaside City – Planning Processes, and Finalisation of Contract with the McInnes Group**

GT1/LEP/2000/3 Pt6; LEP – Seaside City

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

(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

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This item was dealt with earlier in the Meeting at Minute No C19.

REPORTS FROM DIRECTOR ENGINEERING SERVICES IN COMMITTEE

3. EC2002-49: Supply of Pavement Linemarking Services

Traffic – Linemarking; Contracts – Annual Supply

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*

C25

That the submission from Linemarking Australia Pty Ltd for the Supply of Pavement Linemarking Services for the period 1 July 2002 to the 30 June 2004 be accepted.

Voting – Unanimous

DECLARATION OF INTEREST

Cr Youngblutt

Declared an interest in Item No 4, left the Chamber and took no part in the discussion and voting.

The nature of the interest is that Cr Youngblutt is the principal of a firm that has submitted a tender, the subject of this report.

4. EQ2002-69 Maintenance Services to Council's Crams Farm and Clarrie Hall Dam Picnic Areas

Crams Farm Dairy; Dams - Clarrie Hall - General; Dams - Clarrie Hall - Recreation

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*

C26

That Mr Ron Duckworth be awarded the Grounds Maintenance and Cleaning and Garbage Service contracts to the Crams Farm picnic areas for a three (3) year period with a two (2) year option. Prices submitted will be fixed for twelve (12) months and then subject to annual rise and fall.

Voting - Unanimous

RETURN TO MEETING

Cr Youngblutt returned to the meeting.

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REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES IN COMMITTEE

- 5. Tenders for Bulk Earthworks - New Art Gallery**
DA3488/12 Pt1; New Art Gallery; 3488.12; Contracts/Quotations - Building Works
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

C27

That Council:-

1. Accepts the tender of Garry Turner Earthworks in the sum of \$173,690.00 GST inclusive.
2. Completes all necessary documentation under the Common Seal of Council once development approval has been received.
3. Delegates to the Director Environment and Community Services the power to approve variation of the contract up to a total of 10% of the above figure.

Voting For

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

Voting Against

Cr Beck
Cr Youngblutt

DECLARATION OF INTEREST

Cr Brinsmead

Declared an interest in Item No 6, left the Chamber and took no part in the discussion and voting.

The nature of the interest is that Cr Brinsmead has a family member involved in the subject tender process.

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**6. Expressions of Interest - Tenders for New Tweed River Art Gallery
DA3488/12 Pt1; New Art Gallery; 3488.12; Contracts/Quotations - Building Works**

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*

C28

That Council accepts:-

T F Woolam & Son Pty Ltd
Multi Span Australia Pty Ltd
ADCO Constructions Pty Ltd
T & T Building Pty Ltd
Hutchinson Builders
GlENZEIL Pty Ltd

as selected tenderers for the new Art Gallery building and should any withdraw before tenders are called, the reserves be:-

Lahey Constructions Pty Ltd
Waller Constructions.

Voting For

**Voting
Against**

Cr Polglase
Cr Carroll
Cr Davidson
Cr James
Cr Lawrie
Cr Luff
Cr Marshall

Cr Beck
Cr Youngblutt

100

Cr Davidson

Cr Luff

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 9.00pm.



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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 45 of these Minutes

Chairman