

## IN ATTENDANCE

Councillors W J Polglase (Mayor), L F Beck (Deputy Mayor), G B Bell, M R Boyd, R D Brinsmead, S Dale, D M Holdom, H James, G J Lawrie, J F Murray.

Also present were Dr John Griffin (General Manager), Mr Reg Norvill (Executive Manager-Office of the General Manager), Mr Mike Rayner (Director Engineering and Operations), Mr Noel Hodges (Director Planning & Environment), Mr Geoff Edwards (Manager Environment & Health Services), Mr Brian Donaghy (Manager Administration Services/Public Officer) and Mrs Meredith Smith (Minutes Secretary).

## PRAYER

The meeting opened with a Prayer by Bishop John Grindrod.

*"Lord Christ we remember your Transfiguration this week; also on 6 August the first atom bomb was dropped on Hiroshima. In the glory of your Transfiguration on the mountain, heaven and earth were joined. When you came down the mountain immediately you were faced with human distress and tragedy. A father called out in his and his child's pain. The boy had drastic epileptic fits. You quieted and healed him.*

*Lord, send your healing and transfiguring peace to this world. There is so much cruelty and grief - Iraq, Darfur and many other places and the homeless and disadvantaged and helpless in our own land. Fill us with compassion and a spirit of justice. Bless and guide all arms of Government - Federal, State and here in this Shire. Help us to perceive and know the things that we should do, and grant us the grace and power to fulfil them.*

*AMEN."*

## CONFIRMATION OF MINUTES

### Minutes of Ordinary Meeting held Wednesday 21 July 2004

#### 532 RESOLUTION:

**Cr M R Boyd**  
**Cr G B Bell**

**RESOLVED** that the Minutes of the Council Meeting held Wednesday 21 July 2004 be adopted as a true and accurate record of proceedings of that meeting.

**FOR VOTE - Unanimous**  
**ABSENT. DID NOT VOTE - Cr Carroll**

**APOLOGIES**

Cr B J Carroll

Cr Carroll informed the General Manager that her absence was caused by being out of the Shire.

**533 RESOLUTION:**

**Cr M R Boyd**  
**Cr D M Holdom**

**RESOLVED** that the apology of Cr B J Carroll be accepted.

**FOR VOTE - Unanimous**  
**ABSENT. DID NOT VOTE - Cr Carroll**

**DISCLOSURE OF INTEREST**

Nil.

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

**Cr M R Boyd**  
**Cr S M Dale**

**PROPOSED** that the Item Deferred of the Confidential Agenda be considered in Ordinary Council.

The Motion was **Lost**

**FOR VOTE - Cr Holdom, Cr Boyd, Cr Dale, Cr James**  
**AGAINST VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr Bell, Cr Lawrie**  
**ABSENT. DID NOT VOTE - Cr Carroll**

**SCHEDULE OF OUTSTANDING RESOLUTIONS**

**Schedule of Outstanding Resolutions**

**534 RESOLUTION:**

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**Cr G J Lawrie**  
**Cr M R Boyd**

**RESOLVED** that this report be received and noted.

***FOR VOTE - Unanimous***

## **MAYORAL MINUTE**

### **Mayoral Minute**

Councillors,

#### **1. Trike Around Australia**

21 July – in my absence Deputy Mayor, Cr. Lynne Beck, welcomed a group from Trike Around Australia, riding in aid of Arthritis Foundation

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#### **2. Citizenship Ceremony**

22 July – conducted a Citizenship Ceremony at Tweed Heads – 9 conferees plus 1 child

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#### **3. Tweed Valley Regional Art Gallery Foundation**

22 July – attended Board meeting of the Tweed Valley Regional Art Gallery Foundation at Murwillumbah

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#### **4. Tweed Volunteer Rescue**

23 July – media shoot presentation to Tweed Volunteer Rescue at Hastings Point

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#### **5. National Tree Day**

23 July – attended Tree Planting Ceremony at Lakeside Christian College

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#### **6. Southern Cross University**

23 July – attending SCU 10<sup>th</sup> Birthday celebrations at Tweed Campus

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#### **7. Tweed Super Sports Centre**

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24 July – Opening Tweed Super Sports Centre at Chinderah

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**8. Blind & Vision Impaired Support Group**

26 July –Christmas in July Luncheon organised by Blind & Vision Impaired Support Group at Banora

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**9. RSL & Services Clubs**

26 July – welcomed guests to the RSL & Services Clubs Cocktail Party at Twin Towns

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**10. Ocean View**

27 July – opening of Stage 1 Ocean View Retirement Units at Banora

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**11. Summerville Museum**

28 July – with Don Buckley inspected Summerville Museum at Bathurst

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**12. Multicap**

29 July – opening Mt. Warning Respite House at Murwillumbah

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**13. Northern Rivers Regional Arts Board**

29 July - welcome Regional Arts NSW guests at Byron Bay & attend Byron Bay Writers Festival

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**14. TEDC**

30 July – TEDC Board Meeting at Murwillumbah

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**15. Tyalgum Diggers Sports**

31 July – Tyalgum Diggers Sports Day

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**16. Qld Master Builders Assoc**

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31 July – Qld Master Builders Assoc Housing & Construction Awards Gold Coast

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**17. Local Government Week**

1 August – Tweed Coast Cycling Challenge – Pottsville to Casuarina

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**18. Local Government Week**

2 August – Local Bus Trip for ratepayers

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**19. Tweed Hospitals Auxiliary**

2 August – Tweed Hospitals Auxiliary Annual General Meeting

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**20. Tweed Futures**

2 August – Tweed Futures Community Summit at Murwillumbah

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**21. Tweed Chamber of Commerce**

3 August – preside over Tweed Chamber of Commerce Annual General Meeting

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**22. Local Government Week**

4 August – Tweed Schools Debate at Tweed Heads

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**INVITATIONS ACCEPTED:**

- 5 August – Inspection Uki Sewerage System (Local Government Week)
- 6 August – Bus Tour (Local Government Week)
- 6 August – Tweed Red Cross Annual General Meeting at Banora
- 8 August - opening Garden Walk Science Art Centre
- 9-12 August – Water Management Conference in Moama
- 15 August – opening Toilet Block at Mooball
- 16 August – Murwillumbah Hospitals Auxiliary Annual General Meeting

**INFORMATION ON CONFERENCES TO BE HELD** - Councillors to advise Mayoral Assistant, Jan Green, if they wish to attend and/or require further details:

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- Reminder – 7<sup>th</sup> International Riversymposium 31 August-3 September** Brisbane
  - Local Government Road Safety Program 7-9 September** Parramatta (Councillors Session 7 September)
  - LGMA 2004 Conference “the rhythm of life” – 15-17 September** Batemans Bay
  - 9th Australian Parking Convention 17-19 October** Adelaide
  - Griffith University “Creating Child Friendly Cities 28-29 October** Brisbane
  - National General Assembly of Local Government 7-10 November** Canberra
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**ABSENCES FROM SHIRE BY EXECUTIVE, AND COUNCILLORS:**

**Executive**

<b>Name</b>	<b>From</b>	<b>To</b>	<b>Location</b>	<b>Details</b>
DEO	9 August 2004	12 August 2004	Moama	2004 Water Management Conference
GM	2 August 2004		Casino	Sub-Regional GMs Group Meeting

**Councillors**

<b>Name</b>	<b>From</b>	<b>To</b>	<b>Location</b>	<b>Details</b>
W. Polglase	9/8/04	12/8/04	Moama	Water Management Conference

**535 RESOLUTION:**

**Cr W J Polglase**

**RESOLVED** that the Mayoral Minute be adopted.

**FOR VOTE - Unanimous**  
**ABSENT. DID NOT VOTE - Cr Carroll**

**ITEMS DEFERRED**

Nil.

**REPORTS THROUGH THE GENERAL MANAGER**

## REPORTS FROM DIRECTOR PLANNING & ENVIRONMENT

- 1 [DS] Development Application DA04/0271 for a residential flat building incorporating forty one dwellings in a three storey configuration with a front building line variation request at Lot 177 DP 1031933, Kamala Crescent Casuarina.

### 536 RESOLUTION:

Cr G J Lawrie  
Cr G B Bell

**RESOLVED** that Development Application DA04/0271 for a residential flat building incorporating forty one dwellings in a three storey configuration with a front building line variation request at Lot 177 DP 1031933, Kamala Crescent, Casuarina be approved subject to the following conditions:

#### GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos SD 2001f, 2002F, 2003e, 2004e, 2005e and 3001e prepared by Cottee Parker Architects and dated 22/07/2004, except where varied by these conditions. [GEN0010]
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. [GEN0030]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0120]
4. The erection of a building in accordance with a development consent must not be commenced until:
  - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
  - (b) the person having the benefit of the development consent has:
    - (i) appointed a principal certifying authority for the building work, and
    - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - (b1) the principal certifying authority has, no later than 2 days before the building work commences:
    - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
    - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections

- that are to be carried out in respect of the building work, and
- (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
- (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
  - (ii) notified the principal certifying authority of any such appointment, and
  - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[GEN0150]

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

5. 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.

[PCC0010]

#### **6. 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.

a. Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0)	\$56,499
<b>Sector7c_4</b> LCA4 - Kings Beach	\$13,074
b. Shirewide Library Facilities: S94 Plan No. 11	\$17,763
c. Bus Shelters: S94 Plan No. 12	\$715
d. Eviron Cemetery/Crematorium Facilities:	\$3,441



	S94 Plan No. 13	
e.	Emergency Facilities (Surf Lifesaving) (TOU/KH/SEA) S94 Plan No. 16	\$7,384
f.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$10,379.68
g.	Kings Beach Community Facilities S94 Plan No. 19	\$12,828
h.	Kings Beach Cycleways S94 Plan No. 19	\$5,842
i.	Kings Beach Open Space S94 Plan No. 19	\$16,420
j.	Regional Open Space (Structured) S94 Plan No. 26	\$30,354
k.	Regional Open Space (Casual) S94 Plan No. 26	\$5,683

[PCC0050/PSC0005]

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

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

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

Water:	29.75 ET @ \$4325	\$128,669
South Kingscliff Water Levy:	29.75 ET @ 215	\$6,396
Sewer:	29.75 ET @ \$3490	\$103,828

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.

[PCC0070/PSC0004]

8. The basement car parking is to be protected against the inflow of water from Kamala Crescent up to the ARI 100 year storm event. All basement pumping systems shall be designed and installed in accordance with Section 9 of AS/NZS 3500.3.2 (Stormwater Drainage - Acceptable Solutions). [PCC0110]
9. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee. [PCC0190]
10. 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 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) Specific requirements:
- (i) Car wash bays must be bunded, with all runoff treated for oil, sediment and nutrient pollutants prior to discharge to the sewer network, requiring a Tweed Shire Council Trade Waste Application.
- (ii) An oil/grit arrestor, or equivalent approved by Council officers, shall be installed to remove pollutants generated from undercover and

basement car parking areas prior to discharge, and must satisfy the following sizing requirements:

- Storage volume must be available for the combined Sediment Tank and Oil Storage Capacity to retain no less than 0.5m<sup>3</sup> per 1000m<sup>2</sup> of undercover/basement area.
  - The minimum retained volume of any oil/grit arrestor is 0.75m<sup>3</sup>.
- (iii) Where practical, pervious paving shall be used on internal paths and roads to maximise infiltration, with additional runoff directed towards grassed filter strips and landscaping.
- (iv) Overland flow paths used to convey treated stormwater flows and surcharge flows from infiltration devices and pervious landscaping shall be sized to cater for the ARI 100 year design storm event. Overland flow paths and channels shall be contained wholly within the subject allotment, and shall discharge low velocity, dispersed flows to the kerb and gutter in Kamala Crescent.

[PCC0230]

11. 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.

[PCC0240]

12. 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.

[PCC0280]

13. 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*.

[PCC0320]

14. \*
- \* Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.
  - \* All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
  - \* The infiltration rate for sizing infiltration devices shall be 3m per day:
    - As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
  - \* Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by **visible surface flow**, not piped.
  - \* Runoff (other than roof runoff) is to be pre-treated to remove contaminants prior to entry into the infiltration areas, to maximise the life of infiltration areas between major cleaning/maintenance overhauls.
  - \* If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
  - \* All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
  - \* All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
  - \* All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC0360]

#### **PRIOR TO COMMENCEMENT OF WORK**

15. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which

may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0010]

16. 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.

[PCW0030]

17. 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; 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.

[PCW0050]

18. 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.

[PCW0060]

19. **Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003**, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the site is prohibited.

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

20. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following: [PCW0070]
- i. The person must, at the person's own expense:
    - a. preserve and protect the building from damage; and
    - b. if necessary, underpin and support the building in an approved manner.
  - ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0080]

21. 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.

[PCW0090]

22. 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.

[PCW0190]

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

[PCW0210]

24. Prior to the commencement of works on the site all required erosion and sedimentation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

In addition to these measures an appropriate sign is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

Please note that this sign is to remain in position for the duration of the project.

[PCW0280]

25. Residential building work:

- (1) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:

(i) in the name and licence number of the principal contractor, and

(ii) the name of the insurer by which the work is insured under Part 6 of that Act,

- (b) in the case of work to be done by an owner-builder:

(i) the name of the owner-builder, and

(ii) if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (2) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0290]

26. Prior to commencement of works sedimentation and erosion control measures shall be installed to the satisfaction of the Director of Environment and Community Services.

[PCWNS01]

### **DURING CONSTRUCTION**

27. 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).
28. 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.
29. The provision of fifty three (53) unconstrained basement parks for the occupants of the building, eight (8) nominated visitor car parking spaces in the basement, and a further nine spaces in the basement in a tandem formation. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls.
30. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.
31. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- a. A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
  - b. The chute shall be located in a position approved by the Principal Certifying Authority.
  - c. A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.
32. 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.
33. 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.

[DUR0010]

[DUR0040]

[DUR0050]

[DUR0060]

[DUR0070]

[DUR0080]

[DUR0130]



34. 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.  
[DUR0150]
35. The principal certifying authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the principal certifying authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.  
[DUR0170]
36. 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.  
[DUR0200]
37. If the work involved in the erection or demolition of a building:
- a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
  - b. building involves the enclosure of a public place,
- a hoarding or fence must be erected between the work site and the public place.
- If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- Any such hoarding, fence or awning is to be removed when the work has been completed.  
[DUR0220]
38. Provision to be made for the designation of two 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.  
[DUR0240]
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 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.
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[DUR0470]

40. 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.

[DUR0500]

41. A concrete ribbon footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Kamala Crescent. 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.

[DUR0520]

42. All surface water collected from hard stand parking areas to be directed to Council approved pre-treatment facilities before discharge to approved discharge locations. Stormwater from covered or enclosed carpark areas shall not be discharged to the public sewer unless approved treatment facilities have been provided. Details are to be submitted to and approved by the Director of Environment and Community Services prior to installation

[DUR0670]

43. 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.

[DUR0730]

44. 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.

[DUR0850]

45. 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. [DUR0870]
46. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles. [DUR0880]
47. 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 or public holidays. [DUR0900]
48. 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. [DUR0910]
49. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited. [DUR0920]
50. 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" 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. [DUR0930]
51. The burning of builders waste on site by open fire is prohibited. [DUR0940]
52. 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. [DUR0980]
53. 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 and zoning. [DUR1000]
54. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- a. internal drainage, prior to slab preparation;
  - b. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - c. external drainage prior to backfilling.
  - d. completion of work and prior to occupation of the building. [DUR1020]
55. 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. [DUR1030]
56. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR1040]
57. 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. [DUR1070]
58. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993. [DUR1090]
59. 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. [DUR1110]
60. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level. [DUR1130]
61. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-  
\* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
-

- \* 50<sup>0</sup>C in all other classes of buildings.

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

[DUR1160]

- 62. 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.

[DUR1170]

- 63. 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.

[DUR1200]

- 64. 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.

[DUR1210]

- 65. Landscaping of the site shall be carried out in accordance with the submitted landscaping plans. The landscaping to be completed prior to occupation of the building, to the satisfaction of the Director, Development Services.

[DUR1230]

- 66. All landscaping is to comply with the 88B Instrument pertaining to the site.

[DUR1240]

- 67. Swimming Pools (Building)

- A. The swimming pool is to be installed and access thereto restricted in accordance with Council's "Code for the Installation of New Swimming Pools" and Australian Standard AS 1926-1986 (Copy of code enclosed).
  - B. Swimming pools shall have suitable means for the drainage and disposal of overflow water.
  - C. The pool filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
  - D. In the event that Council is not utilised as the inspection/certifying authority:-
    - a. Within seven (7) days of the filling of the pool a Compliance Certificate in the prescribed form shall be submitted to Council together with the prescribed fee, by the Accredited Certifier to certify that all works have been completed in accordance with the approved plans and conditions of Consent and that the swimming pool safety fencing has been installed and complies with AS 1926. [DUR1280]
68. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9. [DUR1290]
69. The site shall not be dewatered. [DURNS01]
70. Acid sulphate soils shall not be exposed or disturbed. [DURNS01]

#### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

71. 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 and conditions of Consent. [POC0020]
72. 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). [POC0030]
73. 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. [POC0050]
74. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate, a final inspection report is to be obtained from Council in relation to the plumbing and drainage works. [POC0170]

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

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

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

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

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

76. Prior to the issue of an occupation certificate, a "satisfactory inspection report" issued by Council must be produced for s68h2 permanent stormwater quality control devices. This inspection report must be obtained from Council prior to backfilling of any of the s68h2 approved devices.

[POC0180]

[POCNS01]

## USE

77. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street.

[USE0040]

78. No items or goods are to be stored or displayed outside the confines of the premises.

[USE0050]

79. A Strata Certificate shall not be issued for a Strata Plan or a Strata Plan of Subdivision unless the provision of the Strata Schemes (Freehold Development) Act 1973 and/or the Strata Schemes (Leasehold Development) Act 1986 have been complied with.

[USE0140]

80. A person must not commence a change of building use for the whole or any part of an existing building unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[USE0150]

81. 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.

[USE0160]

82. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.

[USE0170]

83. A backflow containment device will be installed adjacent to Councils water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owners expense. [USE0240]
84. The keeping of dogs, cats or other animals on the property is to be in accordance with any relevant 88B Instrument requirements. [USE0290]
85. All wastes shall be collected, stored and disposed to the satisfaction of the Director of Environment and Community Services. Wastes shall be presented at the kerb in a Council approved wheelie bin for collection. A screened, graded and drained bin storage area shall be provided within the boundary of the property. [USENS01]
86. Lighting shall not be permitted to impact the amenity of any other premise. [USENS01]
87. Use of the swimming pool shall not be permitted to impact the amenity of any other premise. The swimming pool shall be maintained in a clean and healthy condition at all times. [USENS01]
88. Roof top air conditioning units shall not be permitted to impact the amenity of any premise. [USENS01]

**FOR VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr Bell, Cr Lawrie, Cr James**  
**AGAINST VOTE - Cr Holdom, Cr Boyd, Cr Dale**  
**ABSENT. DID NOT VOTE - Cr Carroll**

- 2 [DS] Development Application DA04/0272 for a Proposed Residential Flat Building Incorporating 41 Dwellings in a Three Storey Configuration with a Front Building Line Variation Request at Lot 178 DP 1031933, Kamala Crescent Casuarina**

**537 RESOLUTION:**

**Cr L F Beck**  
**Cr G J Lawrie**

**RESOLVED** that Development Application DA04/0272 for a residential flat building incorporating forty one dwellings in a three storey configuration with a front building line variation request at Lot 178 DP 1031933, Kamala Crescent Casuarina be approved subject to the following conditions:

**GENERAL**



1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos SD 2007f, 2008f, 2009e, 2010e, 2011e and 3002e prepared by Cottee Parker Architects and dated 22/07/2004, except where varied by these conditions.

[GEN0010]
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.

[GEN0030]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0120]
4. The erection of a building in accordance with a development consent must not be commenced until:
  - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
  - (b) the person having the benefit of the development consent has:
    - (i) appointed a principal certifying authority for the building work, and
    - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - (b1) the principal certifying authority has, no later than 2 days before the building work commences:
    - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
    - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
    - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
    - (ii) notified the principal certifying authority of any such appointment, and
    - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[GEN0150]

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

5. 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.

[PCC0010]

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#### 6. 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.

a.	Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0)	\$56,499
	<b>Sector7c_4</b> LCA4 - Kings Beach	\$13,074
b.	Shirewide Library Facilities: S94 Plan No. 11	\$17,763
c.	Bus Shelters: S94 Plan No. 12	\$715
d.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$3,441
e.	Emergency Facilities (Surf Lifesaving) (TOU/KH/SEA)  S94 Plan No. 16	\$7,384
f.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$10,379.68
g.	Kings Beach Community Facilities S94 Plan No. 19	\$12,828
h.	Kings Beach Cycleways S94 Plan No. 19	\$5,842
i.	Kings Beach Open Space S94 Plan No. 19	\$16,420
j.	Regional Open Space (Structured) S94 Plan No. 26	\$30,354

- k. Regional Open Space (Casual) \$5,683  
S94 Plan No. 26

[PCC0050/PSC0005]

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

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

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

Water:	29.75 ET @ \$4325	\$128,669
South Kingscliff Water Levy:	29.75 ET @ 215	\$6,396
Sewer:	29.75 ET @ \$3490	\$103,828

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.

[PCC0070/PSC0004]

8. The basement car parking is to be protected against the inflow of water from Kamala Crescent up to the ARI 100 year storm event. All basement pumping systems shall be designed and installed in accordance with Section 9 of AS/NZS 3500.3.2 (Stormwater Drainage - Acceptable Solutions).

[PCC0110]

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

[PCC0190]

10. 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 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) Specific requirements:
- (i) Car wash bays must be bunded, with all runoff treated for oil, sediment and nutrient pollutants prior to discharge to the sewer network, requiring a Tweed Shire Council Trade Waste Application.
  - (ii) An oil/grit arrestor, or equivalent approved by Council officers, shall be installed to remove pollutants generated from undercover and basement car parking areas prior to discharge, and must satisfy the following sizing requirements:
    - Storage volume must be available for the combined Sediment Tank and Oil Storage Capacity to retain no less than  $0.5\text{m}^3$  per  $1000\text{m}^2$  of undercover/basement area.
    - The minimum retained volume of any oil/grit arrestor is  $0.75\text{m}^3$ .
  - (iii) Where practical, pervious paving shall be used on internal paths and roads to maximise infiltration, with additional runoff directed towards grassed filter strips and landscaping.
  - (iv) Overland flow paths used to convey treated stormwater flows and surcharge flows from infiltration devices and pervious landscaping shall be sized to cater for the ARI 100 year design storm event. Overland flow paths and channels shall be contained wholly within the subject allotment, and shall discharge low velocity, dispersed

flows to the kerb and gutter in Kamala Crescent.

[PCC0230]

11. 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.

[PCC0240]

12. 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.

[PCC0280]

13. 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*.

[PCC0320]

14. \* Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.

- \* All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
- \* The infiltration rate for sizing infiltration devices shall be 3m per day:
  - As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
- \* Surchage overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by **visible surface flow**, not piped.
- \* Runoff (other than roof runoff) is to be pre-treated to remove contaminants prior to entry into the infiltration areas, to maximise the life of infiltration areas between major cleaning/maintenance overhauls.
- \* If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
- \* All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- \* All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- \* All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC0360]

#### **PRIOR TO COMMENCEMENT OF WORK**

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

[PCW0010]
16. 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.

[PCW0030]
17. 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; 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.

[PCW0050]

- 18. 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.

[PCW0060]

- 19. **Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003**, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the site is prohibited.

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

[PCW0070]

- 20. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:
  - i. The person must, at the person's own expense:

- a. preserve and protect the building from damage; and
  - b. if necessary, underpin and support the building in an approved manner.
- ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.
- [PCW0080]
21. 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.
- [PCW0090]
22. 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.

[PCW0190]

23. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.
- [PCW0210]
24. Prior to the commencement of works on the site all required erosion and sedimentation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

In addition to these measures an appropriate sign is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

Please note that this sign is to remain in position for the duration of the project.

[PCW0280]

25. Residential building work:  
(1) Residential building work within the meaning of the *Home Building Act*



1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
    - (i) in the name and licence number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
  - (b) in the case of work to be done by an owner-builder:
    - (i) the name of the owner-builder, and
    - (ii) if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
- (2) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0290]

26. Prior to commencement of works sedimentation and erosion control measures shall be installed to the satisfaction of the Director of Environment and Community Services.

[PCWNS01]

#### **DURING CONSTRUCTION**

27. 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).

[DUR0010]

28. 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.

[DUR0040]

29. The provision of fifty three (53) unconstrained basement parks for the occupants of the building, eight (8) nominated visitor car parking spaces in the basement, and a further twelve spaces in the basement in a tandum

- formation. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls. [DUR0050]
30. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. [DUR0060]
31. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- a. A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
  - b. The chute shall be located in a position approved by the Principal Certifying Authority.
  - c. A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust. [DUR0070]
32. 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. [DUR0080]
33. 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. [DUR0130]
34. 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. [DUR0150]
35. The principal certifying authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the principal certifying authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979. [DUR0170]
36. 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. [DUR0200]
37. If the work involved in the erection or demolition of a building:
- a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
  - b. building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

[DUR0220]

38. Provision to be made for the designation of two 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.

[DUR0240]

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 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.

[DUR0470]

40. 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.

[DUR0500]

41. A concrete ribbon footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Kamala Crescent. 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.

[DUR0520]

42. All surface water collected from hard stand parking areas to be directed to Council approved pre-treatment facilities before discharge to approved discharge locations. Stormwater from covered or enclosed carpark areas shall not be discharged to the public sewer unless approved treatment facilities have been provided. Details are to be submitted to and approved by the Director of Environment and Community Services prior to installation
43. 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.

[DUR0670]

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.

[DUR0730]

44. 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.
45. 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.
46. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
47. 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 or public holidays.

[DUR0850]

[DUR0870]

[DUR0880]

[DUR0900]

48. 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.

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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.

[DUR0910]

49. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.

[DUR0920]

50. 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" 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.

[DUR0930]

51. The burning of builders waste on site by open fire is prohibited.

[DUR0940]

52. 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.

[DUR0980]

53. 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 and zoning.

[DUR1000]

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

- a. internal drainage, prior to slab preparation;
- b. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- c. external drainage prior to backfilling.
- d. completion of work and prior to occupation of the building.

[DUR1020]

55. 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.

[DUR1030]

56. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

[DUR1040]

57. 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. [DUR1070]
58. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993. [DUR1090]
59. 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. [DUR1110]
60. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level. [DUR1130]
61. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50<sup>0</sup>C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works. [DUR1160]
62. 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. [DUR1170]
63. 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.
- [DUR1200]
64. 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.
- [DUR1210]
65. Landscaping of the site shall be carried out in accordance with the submitted landscaping plans. The landscaping to be completed prior to occupation of the building, to the satisfaction of the Director, Development Services.
- [DUR1230]
66. All landscaping is to comply with the 88B Instrument pertaining to the site.
- [DUR1240]
67. Swimming Pools (Building)
- A. The swimming pool is to be installed and access thereto restricted in accordance with Council's "Code for the Installation of New Swimming Pools" and Australian Standard AS 1926-1986 (Copy of code enclosed).
- B. Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- C. The pool filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- D. In the event that Council is not utilised as the inspection/certifying authority:-
- a. Within seven (7) days of the filling of the pool a Compliance Certificate in the prescribed form shall be submitted to Council together with the prescribed fee, by the Accredited Certifier to certify that all works have been completed in accordance with the approved plans and conditions of Consent and that the swimming pool safety fencing has been installed and complies with AS 1926.
- [DUR1280]
68. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.
- [DUR1290]
69. The site shall not be dewatered.
- [DURNS01]
70. Acid Sulphate Soils shall not be exposed or disturbed.
- [DURNS01]

## **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

71. 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 and conditions of Consent. [POC0020]
72. 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). [POC0030]
73. 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. [POC0050]
74. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate, a final inspection report is to be obtained from Council in relation to the plumbing and drainage works. [POC0170]
75. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.
- The street number is to be on a white reflective background professional painted in black numbers 100mm high.
- On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.
- For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.
- The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work. [POC0180]
76. Prior to the issue of an occupation certificate, a "satisfactory inspection report" issued by Council must be produced for s68h2 permanent stormwater quality control devices. This inspection report must be obtained from Council prior to backfilling of any of the s68h2 approved devices. [POCNS01]

## **USE**



77. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street. [USE0040]
78. No items or goods are to be stored or displayed outside the confines of the premises. [USE0050]
79. A Strata Certificate shall not be issued for a Strata Plan or a Strata Plan of Subdivision unless the provision of the Strata Schemes (Freehold Development) Act 1973 and/or the Strata Schemes (Leasehold Development) Act 1986 have been complied with. [USE0140]
80. A person must not commence a change of building use for the whole or any part of an existing building unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units). [USE0150]
81. 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. [USE0160]
82. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997. [USE0170]
83. A backflow containment device will be installed adjacent to Councils water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owners expense. [USE0240]
84. The keeping of dogs, cats or other animals on the property is to be in accordance with any relevant 88B Instrument requirements. [USE0290]
85. All wastes shall be collected, stored and disposed to the satisfaction of the Director of Environment and Community Services. Wastes shall be presented at the kerb in a Council approved wheelie bin for collection. A screened, graded and drained bin storage area shall be provided within the boundary of the property. [USENS01]
86. Lighting shall not be permitted to impact the amenity of any other premise. [USENS01]
87. Use of the swimming pool shall not be permitted to impact the amenity of any other premise. The swimming pool shall be maintained in a clean and healthy condition at all times. [USENS01]
88. Roof top air conditioning units shall not be permitted to impact the amenity of any premise.
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**FOR VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr Bell, Cr Lawrie, Cr James**

**AGAINST VOTE - Cr Holdom, Cr Boyd, Cr Dale**

**ABSENT. DID NOT VOTE - Cr Carroll**

**3 [DS] West Kingscliff Structure Plan**

**538 RESOLUTION:**

**Cr H James**

**Cr G B Bell**

**RESOLVED** that Council notes the intention of Gales Holdings and Council Officers to complete a draft Structure Plan for West Kingscliff for submission to Council by the end of November 2004.

**FOR VOTE - Unanimous**

**ABSENT. DID NOT VOTE - Cr Carroll**

**4 [DS] Elizabeth Street, Pottsville -Classification of Land and Future Use**

**539 RESOLUTION:**

**Cr G J Lawrie**

**Cr H James**

**RESOLVED** that:

1. Council offers the Pottsville Beach Neighbourhood Centre Inc a licence to occupy and use Lot 534 in DP 48641 for community purposes;
2. Lot 534 in DP 48641 be classified as operational under the provisions of the Local Government Act, 1993; and
3. All necessary documentation be executed and endorsed under the Common Seal of Council.

**FOR VOTE - Unanimous**

**ABSENT. DID NOT VOTE - Cr Carroll**

## REPORTS FROM EXECUTIVE MANAGER - OFFICE OF THE GENERAL MANAGER

### 5 [OGM] Review of Council's Delegations

#### 540 RESOLUTION:

Cr G J Lawrie  
Cr D M Holdom

**RESOLVED** that Council delegates to the General Manager the functions of Council other than those specifically prohibited under Section 377 of the Local Government Act 1993.

**FOR VOTE - Unanimous**  
**ABSENT. DID NOT VOTE - Cr Carroll**

### 6 [OGM] Council's Revised Code of Conduct

#### 541 RESOLUTION:

Cr D M Holdom  
Cr G B Bell

**RESOLVED** that the revised Code of Conduct, as it appears below, be adopted by Council:

#### 1.1 Introduction

The Local Government Act 1993 at Section 440 requires Council to prepare or adopt a Code of Conduct to be observed by Councillors, members of staff of the Council and Delegates of the Council.

The adoption of the Code of Conduct is important in demonstrating to the community that Tweed Shire Council will carry out its mission and statutory role with efficiency, impartiality and integrity.

Commitment to the Code of Conduct is essential to make the formal adoption meaningful. Councillors and members of staff are required to read the code, understand it and observe it both in letter and in spirit at all times. The Code is an expression of the high values held by the people working for and comprising Tweed Shire Council.

Councillors and the General Manager have a responsibility to Council for compliance with this Code. Similarly, members of staff are accountable to the General Manager for compliance.

#### 1.2 What Are the Purposes of the Code?

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To assist Councillors, members of staff and delegates:

- to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence;
- to provide a practical means of identifying and resolving situations which involve conflict of interest or improper use of their positions;
- to promote fair, transparent and informed decision making with Council by both Councillors and staff; and
- to act in a way which enhances public confidence in the system of local government.

### **1.3 What is the Relationship of this Code to the Act?**

This Code is to be read in conjunction with relevant legislation and Council's policies. However, nothing in this Code is a substitute for the Act and does not override it.

### **1.4 Conflicts of Interest:**

#### **1.4.1 What is the special duty of a Councillor, Member of Staff and Delegate?**

You must avoid and appropriately resolve any conflict or incompatibility between his or her private or personal interests and the impartial performance of his or her public or professional duties.

#### **1.4.2 When does a Conflict of Interest arise?**

A conflict of interest arises if it is likely that the person with the private or personal interest could be prejudicially influenced in the performance of his or her public or professional duties by that interest, or that a reasonable person would believe that the person could be so influenced.

Any conflict between personal interest and public duty, which could be seen to influence a person, should be avoided.

### **1.5 Other Responsibilities of Councillors, Members of Staff and Delegates**

#### **1.5.1 Equitable Treatment of People and Situations**

Councillors, members of staff and delegates of Tweed Shire Council have a primary duty to consider and protect the public interest. In the performance of that duty, there is a commitment to:

- act according to law both in content and spirit;
- act reasonably, justly and not oppressively or in an unlawfully discriminatory manner;
- take all reasonable steps to ensure that the information upon which decisions or actions are based is factually correct and that all relevant information has been obtained;
- avoid situations where one's actions could be perceived to infer the seeking or acceptance of a bribe, or special benefit, or other forms of encouragement to act in an improper way;

- not take advantage of one's official position to improperly influence other Councillors, members of staff, or delegates in the performance of their public or professional duties for the purpose of securing a private benefit;
- treat members of the public fairly, equitably and with integrity, courtesy, compassion and sensitivity; and
- not behave in any way, in the performance of public or professional duties, which may cause any reasonable person unwarranted offence or embarrassment or give rise to the reasonable suspicion or appearance of improper or corrupt conduct.

### **1.6 Particular Obligations of Staff**

A member of staff must:

- while on duty, give the whole of his or her time and attention to the business of the Council and ensure that his or her work is carried out efficiently, economically and effectively;
- carry out lawful directions given by any person having authority to give such directions;
- give effect to the lawful policies, decisions and practices of the Council, whether or not the staff member agrees with or approves of them;
- accept responsibility and be accountable for one's own actions in accordance with the law and this Code;
- as supervisors and managers, provide a safe workplace in managing a functional area;
- as supervisors and managers, have a responsibility to act when it is known that a person for whom they are responsible, is acting in a way that is contrary to the law or this Code;
- manage staff fairly and equitably, avoiding harassment and unlawful discrimination.

### **1.7 Gifts, Gratuities and Hospitality**

Councillors, members of staff or delegates must not by virtue of their official position, accept or acquire for a personal advantage, any gift, gratuities and hospitality other than a token kind or moderate form of hospitality other than as permitted by the Local Government Act 1993.

Councillors, members of staff or delegates must not seek or accept gifts where these would lead them to being compromised or being seen by a reasonable person to be compromised. Councillors, members of staff and delegates should avoid giving any indication that such gifts, gratuities or hospitality would be accepted or that they may influence decisions.

Offers of gifts, benefits, travel or hospitality for partners, relatives or friends, should generally not be accepted, other than of a token kind or moderate form of hospitality.

A Councillor is to inform the Council of the receipt of any non-nominal value gift, benefit, travel or hospitality. Similarly, a member of staff is to inform the General Manager of the receipt of any substantial gift, benefit, travel or

hospitality. Gifts and travel in excess of a nominal value must be disclosed in the annual returns of disclosures of pecuniary interest and other matters for Councillors and in the Council's Register of Gifts for Council Staff.

A register of gifts is to be maintained by the General Manager.

**Nominal Value" is defined as having a value of less than \$20.00 on any one occasion and less than a cumulative value of \$100.00 per annum."**

### **1.8 Use of Council's Resources**

A Councillor, member of staff or delegate must:

- use Council resources effectively and economically in the course of his or her public or professional duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless such use is lawfully authorised and proper payment is made where appropriate; and
- not convert to his or her own use any property of the Council.

### **1.9 Confidentiality - Use of Information**

- To facilitate public access to information about Council's activities, Councillors, members of staff or delegates shall not classify information as confidential unless there is a genuine reason to do so. Section 10A(2) of the Local Government Act applies.
- A Councillor, member of staff or delegate must not use confidential information gained by virtue of his or her official position for the purpose of securing a private benefit for himself or herself or for any other person.
- A Councillor, member of staff or delegate must not, without lawful authority, refer to or disclose otherwise than to the Council, a Councillor, or a member of staff entitled to know, information concerning any matter referred to in Section 10A(2) of the Local Government Act 1993.

### **1.10 Private Work By Staff**

Section 353 (2) of the Local Government Act 1993 states that a member of staff must not engage for remuneration in private employment or contract work outside the services of the Council that relates to the business of the Council or that might conflict with the members Council duties, unless he or she has notified the General Manager in writing of the employment or work.

Section 353(4) of the Act states that a member of staff must not engage, for remuneration, in private employment or contract work outside the service of the Council if prohibited from doing so by the General Manager.

### **1.11 What are the Legitimate Expectations of a Councillor, Member of Staff and Delegate?**

A Councillor, member of staff or delegate who honestly and faithfully observes the requirements of this code and any relevant law is entitled to expect the publicly expressed support of his or her Council and colleagues against unfair

allegations of dishonesty or partial performance of his or her public or professional duties.

### **1.12 Public Comments by General Managers and/or Senior Staff**

1. "Public comment" includes public speaking engagements (including comments on radio and television), expressing views in letters to the press or in books or notices or where it is reasonably foreseeable that publication or circulation will enter the public domain.
2. General Managers and other Senior Staff should confine public discussion or comment on Council matters to material that is in the public domain as Council policy or direction, except where required by law, as authorized by the Mayor or Council, or in accordance with a relevant Council policy or code of conduct.
3. General Managers and other Senior Staff who are required to make public comment are expected to perform this duty with professionalism, objectivity and integrity. They should not supplant their own values over those explicit or implicit in Council's policy and should be able to negotiate the boundaries between policy development/implementation and political objectives without intruding into the political arena.
4. Whilst General Managers and other Senior Staff in their private capacity as members of the community have the right to make public comment, they need to be sensitive to the fact that because of their responsibility and status, there will tend to be the implication that the public comment, although clearly made in a private capacity, is in some way an official comment of the Council. They will need to clearly state that such public comment reflects personal opinion only.

### **1.13 How should a Conflict of Interest be dealt with?**

- A Councillor, member of staff or delegate who knows or has good reasons to suspect any conflict of interest, fraud, corrupt, criminal or unethical conduct must report it immediately to the General Manager or nominated alternate. If any such complaint is made to the General Manager, the ICAC Act places a duty on the General Manager to report that complaint to the Commission.
- Where the conflict of interest is a pecuniary one, the person with the interest must comply with the provisions of the Local Government Act 1993.
- A complaint may be made directly to the Independent Commission Against Corruption about any matter that concerns or may concern corrupt conduct, however, the ICAC Act contains a penalty for deliberately providing false or misleading information in relation to a complaint.
- The Protected Disclosures Act 1994, provides certain protections against reprisals for employees who voluntarily report suspected corrupt conduct, as well as maladministration and serious and substantial waste of public resources to the General Manager, the ICAC, or the Ombudsman. It should be noted that such protections do not apply in cases of vexatious or malicious allegations.

### 1.14 Breaches of this Code

#### Against a Councillor

Council having resolved that a Councillor has failed to comply with this Code, can by resolution:

- require the Councillor to apologise to the person concerned;
- request a formal apology;
- counsel the Councillor;
- reprimand the Councillor;
- resolve to make its decision on the matter public;
- pass a censure motion at a Council meeting;
- make public disclosures of inappropriate conduct (such as making the community aware of the breach through the media or The Annual Report)
- refer the matter to an appropriate investigative body if the matter is serious and/or
- prosecute any breach of the law.

#### Against Staff

Penalties against staff, depending upon the severity, scale and importance of the breach, may include:

- counselling the staff member;
- instituting disciplinary proceedings in accordance with council's Disciplinary Policy, which may result in dismissal and/or
- prosecution of any breach of the law.

Prior to any breach being acted on, the person alleged to be in the breach, must be advised in writing of the specific breach and shall be given twenty-one (21) days in which to respond to that allegation. That response may be verbal or it may be in writing. Any response must be taken into account in determining any penalty.

## CODE OF CONDUCT SCHEDULE OF RELEVANT LEGISLATION

### Local Government Act 1993

Subject	Section	Commentary
Code of Conduct	s 440	Requirement for Council to prepare and adopt a code of conduct
Conduct of Councillors, Staff & Delegates	s 439	Requirement to act honestly and with a degree of due care and diligence
Council's Charter	s 8	Prescribes fairness, openness, impartiality and responsibility
Disclosure and misuse of information	s 664	Prescribes penalty of 50 points and offence in connection with the execution and administration of the Act
Disclosure of information	s 10A(2)	



- Council meetings		Council to state grounds for closing a meeting
Dismissal from civic office	s 329	Prescribes the powers of courts to dismiss
Disqualification from holding civic office	s 275	Defines who may be disqualified and under what circumstances. inter alia, refers to Crimes Act Chapter 4 (Offences against property)
Election funding disclosures	s 328	Obligation to disclose donations
Fees, expenses and facilities	s 248-254	Specifies entitlements for Councillors
Fees, expenses and facilities - annual reporting	s 428(2)(f)	Specifies required information for Council's Annual Report
Gifts	Sch 3, Part 1, Div 2	Specifies when to disclose if making a return under s 449
Honesty & disclosure of interests	s 439-489 & Sch 3	Please refer to the Act or the Local Government Law Guide for a full list of requirements
Non-disclosure of gifts permitted	Sch 3, Part 1, Div 2	Exemptions are listed as follows: gifts under \$500, unless it was among gifts totalling more than \$500 made by the same person a disclosed political contribution under Part ... of the Election Funding Act 1981 or the donor was a relative of the donor
Non-disclosure of interests permitted	s 448	Please refer to the Act or the Local Government Law Guide for a full list of requirements
Pecuniary Interest - declarations at meetings	s 451-458	Defines procedures for disclosure and participation in meetings
Pecuniary Interest - definitions	s 442	Definitions of what is and who has a pecuniary interest
Review of Code of Conduct	s 440	Requirement for review of the code within twelve months of each ordinary election

**Independent Commission Against Corruption Act 1988**

<b>Subject</b>	<b>Section</b>	<b>Commentary</b>
Corrupt conduct defined	s 8	Fraud is one element of the Commission definition of corrupt conduct
Limitations on the nature of corrupt conduct	s 9	Conduct is not corrupt unless it could constitute or involve a criminal offence or disciplinary offence, or reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official

**Occupational Health & Safety Act 1983**

<b>Subject</b>	<b>Section</b>	<b>Commentary</b>
Employers' obligations	s 15-18	Also refer s 5, Objects of the Act
Employees' obligations	s 19-21	Also refer s 5, Objects of the Act

**Ombudsman Act 1974**

<b>Subject</b>	<b>Section</b>	<b>Commentary</b>
Scope of Ombudsman's reports	s 26	Provides definitions of types of conduct to be investigated
Who can complain to Ombudsman	s 12	Discusses conditions which apply when referring a matter

**Protected Disclosures Act**

<b>Subject</b>	<b>Section</b>	<b>Commentary</b>
Internal reporting system	s 9, s 14(1)	Necessary procedures defined for internal reporting to ensure protection, including reporting through the General Manager
Maladministration	s 11	This is only part of the jurisdiction of the Ombudsman. It includes corrupt conduct
Offences (detrimental action)	s 20(1) & (2)	These sections define the offence of detrimental action in reprisal for making a protected disclosure
Offences (false, misleading, frivolous or vexatious disclosures)	s 28	Such offences can be identified by the General Manager or the investigating authority
Protected disclosures	S 26	Lists the circumstances in which disclosures are protected under the Act
Protection from defamation	s 21	Protected disclosures are protected from actions such as defamation suits

**AMENDMENT**

**Cr M R Boyd**  
**Cr H James**

**PROPOSED** that the revised Code of Conduct, as it appears below, be adopted by Council:

**1.1 Introduction**

The Local Government Act 1993 at Section 440 requires Council to prepare or adopt a Code of Conduct to be observed by Councillors, members of staff of the Council and Delegates of the Council.

The adoption of the Code of Conduct is important in demonstrating to the community that Tweed Shire Council will carry out its mission and statutory role with efficiency, impartiality and integrity.

Commitment to the Code of Conduct is essential to make the formal adoption meaningful. Councillors and members of staff are required to read the code, understand it and observe it both in letter and in spirit at all times. The Code is an expression of the high values held by the people working for and comprising Tweed Shire Council.

Councillors and the General Manager have a responsibility to Council for compliance with this Code. Similarly, members of staff are accountable to the General Manager for compliance.

## **1.2 What Are the Purposes of the Code?**

To assist Councillors, members of staff and delegates:

- to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence;
- to provide a practical means of identifying and resolving situations which involve conflict of interest or improper use of their positions;
- to promote fair, transparent and informed decision making with Council by both Councillors and staff; and
- to act in a way which enhances public confidence in the system of local government.

## **1.3 What is the Relationship of this Code to the Act?**

This Code is to be read in conjunction with relevant legislation and Council's policies. However, nothing in this Code is a substitute for the Act and does not override it.

## **1.4 Conflicts of Interest:**

### **1.4.1 What is the special duty of a Councillor, Member of Staff and Delegate?**

You must avoid and appropriately resolve any conflict or incompatibility between his or her private or personal interests and the impartial performance of his or her public or professional duties.

### **1.4.2 When does a Conflict of Interest arise?**

A conflict of interest arises if it is likely that the person with the private or personal interest could be prejudicially influenced in the performance of his or her public or professional duties by that interest, or that a reasonable person would believe that the person could be so influenced.

Any conflict between personal interest and public duty, which could be seen to influence a person, should be avoided.

## **1.5 Other Responsibilities of Councillors, Members of Staff and Delegates**

### **1.5.1 Equitable Treatment of People and Situations**

Councillors, members of staff and delegates of Tweed Shire Council have a primary duty to consider and protect the public interest. In the performance of that duty, there is a commitment to:

- act according to law both in content and spirit;
- act reasonably, justly and not oppressively or in an unlawfully discriminatory manner;
- take all reasonable steps to ensure that the information upon which decisions or actions are based is factually correct and that all relevant information has been obtained;
- avoid situations where one's actions could be perceived to infer the seeking or acceptance of a bribe, or special benefit, or other forms of encouragement to act in an improper way;
- not take advantage of one's official position to improperly influence other Councillors, members of staff, or delegates in the performance of their public or professional duties for the purpose of securing a private benefit;
- treat members of the public fairly, equitably and with integrity, courtesy, compassion and sensitivity; and
- not behave in any way, in the performance of public or professional duties, which may cause any reasonable person unwarranted offence or embarrassment or give rise to the reasonable suspicion or appearance of improper or corrupt conduct.

### **1.6 Particular Obligations of Staff**

A member of staff must:

- while on duty, give the whole of his or her time and attention to the business of the Council and ensure that his or her work is carried out efficiently, economically and effectively;
- carry out lawful directions given by any person having authority to give such directions;
- give effect to the lawful policies, decisions and practices of the Council, whether or not the staff member agrees with or approves of them;
- accept responsibility and be accountable for one's own actions in accordance with the law and this Code;
- as supervisors and managers, provide a safe workplace in managing a functional area;
- as supervisors and managers, have a responsibility to act when it is known that a person for whom they are responsible, is acting in a way that is contrary to the law or this Code;
- manage staff fairly and equitably, avoiding harassment and unlawful discrimination.

### **1.7 Gifts, Gratuities and Hospitality**

Councillors, members of staff or delegates must not by virtue of their official position, accept or acquire for a personal advantage, any gift, gratuities and hospitality other than a token kind or moderate form of hospitality other than as permitted by the Local Government Act 1993.

Councillors, members of staff or delegates must not seek or accept gifts where these would lead them to being compromised or being seen by a reasonable person to be compromised. Councillors, members of staff and delegates should avoid giving any indication that such gifts, gratuities or hospitality would be accepted or that they may influence decisions.

Offers of gifts, benefits, travel or hospitality for partners, relatives or friends, should generally not be accepted, other than of a token kind or moderate form of hospitality.

A Councillor is to inform the Council of the receipt of any non-nominal value gift, benefit, travel or hospitality. Similarly, a member of staff is to inform the General Manager of the receipt of any substantial gift, benefit, travel or hospitality. Gifts and travel in excess of a nominal value must be disclosed in the annual returns of disclosures of pecuniary interest and other matters for Councillors and in the Council's Register of Gifts for Council Staff.

A register of gifts is to be maintained by the General Manager.

**Nominal Value" is defined as having a value of less than \$20.00 on any one occasion and less than a cumulative value of \$100.00 per annum."**

### **1.8 Use of Council's Resources**

A Councillor, member of staff or delegate must:

- use Council resources effectively and economically in the course of his or her public or professional duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless such use is lawfully authorised and proper payment is made where appropriate; and
- not convert to his or her own use any property of the Council.

### **1.9 Confidentiality - Use of Information**

- To facilitate public access to information about Council's activities, Councillors, members of staff or delegates shall not classify information as confidential unless there is a genuine reason to do so. Section 10A(2) of the Local Government Act applies.
- A Councillor, member of staff or delegate must not use confidential information gained by virtue of his or her official position for the purpose of securing a private benefit for himself or herself or for any other person.
- A Councillor, member of staff or delegate must not, without lawful authority, disclose otherwise than to the Council, a Councillor, or a member of staff entitled to know, information concerning any matter referred to in Section 10A(2) of the Local Government Act 1993.

### **1.10 Private Work By Staff**

Section 353 (2) of the Local Government Act 1993 states that a member of staff must not engage for remuneration in private employment or contract work outside the services of the Council that relates to the business of the Council or that might conflict with the members Council duties, unless he or she has notified the General Manager in writing of the employment or work.

Section 353(4) of the Act states that a member of staff must not engage, for remuneration, in private employment or contract work outside the service of the Council if prohibited from doing so by the General Manager.

### **1.11 What are the Legitimate Expectations of a Councillor, Member of Staff and Delegate?**

A Councillor, member of staff or delegate who honestly and faithfully observes the requirements of this code and any relevant law is entitled to expect the publicly expressed support of his or her Council and colleagues against unfair allegations of dishonesty or partial performance of his or her public or professional duties.

### **1.12 Public Comments by General Managers and/or Senior Staff**

1. "Public comment" includes public speaking engagements (including comments on radio and television), expressing views in letters to the press or in books or notices or where it is reasonably foreseeable that publication or circulation will enter the public domain.
2. General Managers and other Senior Staff should confine public discussion or comment on Council matters to material that is in the public domain as Council policy or direction, except where required by law, as authorized by the Mayor or Council, or in accordance with a relevant Council policy or code of conduct.
3. General Managers and other Senior Staff who are required to make public comment are expected to perform this duty with professionalism, objectivity and integrity. They should not supplant their own values over those explicit or implicit in Council's policy and should be able to negotiate the boundaries between policy development/implementation and political objectives without intruding into the political arena.
4. Whilst General Managers and other Senior Staff in their private capacity as members of the community have the right to make public comment, they need to be sensitive to the fact that because of their responsibility and status, there will tend to be the implication that the public comment, although clearly made in a private capacity, is in some way an official comment of the Council. They will need to clearly state that such public comment reflects personal opinion only.

### **1.13 How should a Conflict of Interest be dealt with?**

- A Councillor, member of staff or delegate who knows or has good reasons to suspect any conflict of interest, fraud, corrupt, criminal or unethical conduct must report it immediately to the General Manager or nominated

alternate. If any such complaint is made to the General Manager, the ICAC Act places a duty on the General Manager to report that complaint to the Commission.

- Where the conflict of interest is a pecuniary one, the person with the interest must comply with the provisions of the Local Government Act 1993.
- A complaint may be made directly to the Independent Commission Against Corruption about any matter that concerns or may concern corrupt conduct, however, the ICAC Act contains a penalty for deliberately providing false or misleading information in relation to a complaint.
- The Protected Disclosures Act 1994, provides certain protections against reprisals for employees who voluntarily report suspected corrupt conduct, as well as maladministration and serious and substantial waste of public resources to the General Manager, the ICAC, or the Ombudsman. It should be noted that such protections do not apply in cases of vexatious or malicious allegations.

#### **1.14 Breaches of this Code**

##### Against a Councillor

Council having resolved that a Councillor has failed to comply with this Code, can by resolution:

- require the Councillor to apologise to the person concerned;
- request a formal apology;
- counsel the Councillor;
- reprimand the Councillor;
- resolve to make its decision on the matter public;
- pass a censure motion at a Council meeting;
- make public disclosures of inappropriate conduct (such as making the community aware of the breach through the media or The Annual Report)
- refer the matter to an appropriate investigative body if the matter is serious and/or
- prosecute any breach of the law.

##### Against Staff

Penalties against staff, depending upon the severity, scale and importance of the breach, may include:

- counselling the staff member;
- instituting disciplinary proceedings in accordance with council's Disciplinary Policy, which may result in dismissal and/or
- prosecution of any breach of the law.

Prior to any breach being acted on, the person alleged to be in the breach, must be advised in writing of the specific breach and shall be given twenty-one (21) days in which to respond to that allegation. That response may be verbal or it may be in writing. Any response must be taken into account in determining any penalty.

## CODE OF CONDUCT SCHEDULE OF RELEVANT LEGISLATION

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Disclosure and misuse of information	s 664	Prescribes penalty of 50 points and offence in connection with the execution and administration of the Act
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Pecuniary Interest	s 451-	Defines procedures for disclosure and



- declarations at meetings	458	participation in meetings
Pecuniary Interest - definitions	s 442	Definitions of what is and who has a pecuniary interest
Review of Code of Conduct	s 440	Requirement for review of the code within twelve months of each ordinary election

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<b>Subject</b>	<b>Section</b>	<b>Commentary</b>
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<b>Subject</b>	<b>Section</b>	<b>Commentary</b>
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Who can complain to Ombudsman	s 12	Discusses conditions which apply when referring a matter

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<b>Subject</b>	<b>Section</b>	<b>Commentary</b>
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Offences (false, misleading, frivolous or vexatious disclosures)	s 28	Such offences can be identified by the General Manager or the investigating authority
Protected disclosures	S 26	Lists the circumstances in which disclosures are protected under the Act
Protection from defamation	s 21	Protected disclosures are protected from actions such as defamation suits

The Amendment was **Lost**

**FOR VOTE - Cr Holdom, Cr Boyd, Cr Dale, Cr James**

**AGAINST VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr Bell, Cr Lawrie**

**ABSENT. DID NOT VOTE - Cr Carroll**

The Motion was **Carried**

**FOR VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr Bell, Cr Lawrie, Cr Dale**

**AGAINST VOTE - Cr Holdom, Cr Boyd, Cr James**

**ABSENT. DID NOT VOTE - Cr Carroll**

## 7 [OGM] Code of Meeting Practice

### 542 RESOLUTION:

Cr M R Boyd  
Cr L F Beck

**RESOLVED** that the Code of Meeting Practice as follows be adopted by Council.

### TWEED SHIRE COUNCIL CODE OF MEETING PRACTICE

#### 1. PRELIMINARY

##### 1.1 Citation

This Code may be cited as the Tweed Council Code of Meeting Practice.

##### 1.2 Commencement

This Code commenced on 6 July 1994.

##### 1.3 Definitions

In this Code:

**Amendment:** in relation to an original motion, means a motion moving an amendment to that motion;

**Chairperson:**

- a) in relation to a meeting of the Council - means the person presiding at the meeting as provided by Section 369 of the Act; and
- (b) in relation to a meeting of a Committee of the Council - means the person presiding at the meeting as provided by Clause 40 of the Regulation;

**Committee:** in relation to the Council, means a Committee appointed or elected by the Council in accordance with Clause 33 of the Regulation or the Council when it has resolved into a Committee of the Whole;

**Councillor:** includes an elected member of the Council;

**Record:** means a document (including any written or printed material) or object (including a sound recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or made or a painting or other pictorial or graphic work) that is or has been made or received in the course of official duties by a councillor or an employee of the council and, in particular, includes the minutes of meetings of the Council or of a Committee of the Council;

**The Act:** means the Local Government Act 1993.

### ***Act and Regulation***

- This code is made pursuant to Section 360(2) of the Act.*
- It incorporates relevant provisions of the Act and the Regulation.*
- In the event of any inconsistency between the Code and the Act or the Regulation, the Act or Regulation (as the case may be) prevails to the extent of the inconsistency.*

### ***Code of Meeting Practice***

- The Code of Meeting Practice applies to all meetings of Council and to all Committee meetings of Council without exception.*
- Any matters arising regarding procedure of meetings are to be determined by the Code of Meeting Practice.*

- *In the absence of a specific matter being contained in the Code of Meeting Practice the meeting shall abide by the ruling from the Chairperson.*

## **2. CONVENING OF AND ATTENDANCE AT COUNCIL AND COMMITTEE MEETINGS**

### **2.1 How Often Does the Council Meet?**

The ordinary meetings of Council are held in the Council Chambers, Civic and Cultural Centre, Tumbulgum Road, Murwillumbah, on the first and third Wednesday of each month commencing at 3.00pm to 10.30pm with a meal break between 6.30pm and 7.30pm.

(Sec 365)

Community Access to be held on the second Wednesday of each month between 4.30pm and 6.30pm.

Ordinary meetings of Council may be held at other venues as determined by Council.

Councillors can give a verbal report on Committee Meetings outside of Council, on Community Access meeting days.

### **2.2 Calling of Extraordinary Meeting on Request by Councillors**

If the Mayor receives a request in writing signed by at least two (2) Councillors, the Mayor must call an extraordinary meeting of the Council to be held as soon as practicable but in any event within fourteen (14) days after receipt of the request.

(Sec 366)

### **2.3 Notice of Meetings**

Each Councillor must receive, at least three (3) days before each meeting of the Council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting.

Notice of less than three (3) days may be given of an extraordinary meeting called in an emergency.

(Sec 367)

Notice of all meetings shall be in writing and delivered to each Councillor with the complete agenda on the Friday preceding the meeting.

A copy of the Meeting Agenda is to be placed in the three (3) Council Libraries and distributed to the Media as well as other interested parties as nearly as possible to the time they are available to Councillors.

#### **2.4 What is the Quorum of a Meeting?**

The quorum for a meeting of the Council and a Committee is a majority of the Councillors of the Council who hold office for the time being and are not suspended from office.

(Sec 368)

The quorum for a meeting of a Committee of Council is to be:

- (a) such number of members as the Council decides; or
- (b) if the Council has not decided a number - a majority of the members of the Committee.

#### **2.5 What Happens when a Quorum is Not Present?**

A meeting of the Council or Committee must be adjourned if a quorum is not present:

R6(1)

- (a) within half an hour after the time designated for the holding of the meeting; or
- (b) at any time during the meeting.

In either case, the meeting must be adjourned at a time, date and place fixed:

R6(2)

- (a) by the chairperson; or
- (b) in his or her absence - by the majority of the Councillors present; or
- (c) failing that, by the General Manager.

R6(3)

The General Manager must record in the Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the Council, together with the names of the Councillors present.

#### **2.6 Presence at Council Meetings**

A Councillor cannot participate in a meeting of the Council unless personally present at the meeting.

R8

## **2.7 Public Notice of Meetings**

Council must give notice to the public of the times and places of its meetings and meetings of those of its Committees of which all the members are Councillors.

(Sec 9(1))

### **Copy of Business Paper**

Council and each such Committee must have available for the public at its offices and at each meeting copies (for inspection or taking away by any person) of the business paper for the meeting. This requirement does not apply to a business paper for a matter that, in the opinion of the General Manager, is likely to be considered when the meeting is closed to the public.

(Sec 9(2))

### **Time of Availability**

The copies are to be available to the public as nearly as possible to the time they are available to Councillors.

(Sec 9(3))

### **No Charge**

The copies are to be available free of charge.

(Sec 9(4))

## **2.8 Who is Entitled to Attend Meetings?**

Everyone is entitled to attend a meeting of Council and those of its Committees of which all the members are Councillors.

A council must ensure that all meetings of the council and of such committees are open to the public.

However, a person (whether a councillor or another person) is not entitled to be present at a meeting if expelled from the meeting by a resolution of the meeting.

The meeting may be closed to the public as outlined in Section below.

(Sec 10)

## **2.9 Closure of Meetings to the Public (Confidential Session)**

1. Council or such a Committee of which all the members are councillors, may close to the public so much of its meeting as comprises, the discussion of any of the matters listed in subclause (2), or the receipt or discussion of any of the information as follows.

(Sec 10(A))

2. a personnel matters concerning particular individuals,
- b the personal hardship of any resident or ratepayer;
- c information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
- d commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the Council, or
  - (iii) reveal a trade secret;
- e information the disclosure of which would prejudice the maintenance of the law;
- f matters affecting the security of the Council, Councillors, Council staff or Council property;
- g advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- h. Information concerning the nature and location of a place or an item of aboriginal significance on Community land.

A Council, or a committee of which all the members are councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

A Council or a committee of Council may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.  
(Sec 10A)

## **2.10 Access to Records**

A Council and a Committee of which all the members are Councillors must, during or at the close of a meeting, or during the business day following the

meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.

This section does not apply if the correspondence or reports:

a relate to a matter that was received or discussed; or

b were laid on the table at, or submitted to, the meeting, when the meeting was closed to the public.

This section does not apply if the Council or Committee resolves at the meeting, when open to the public, that the correspondence or reports, because they relate to a matter specified in Section 10A(2), are to be treated as confidential.

(Sec 11)

### **3. PROCEDURES FOR THE CONDUCT OF COUNCIL MEETINGS**

#### **3.1 Who Presides at Meetings of the Council?**

The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor (if any) presides at meetings of Council and its Committees.

If the Mayor and the Deputy Mayor (if any) are absent, a Councillor elected to chair the meeting by the Councillors present presides at a meeting of the Council or Committee.

(Sec 369)

#### **3.2 Councillor to be Elected to Preside at Certain Meetings**

If no Chairperson is present at a meeting of the Council or Committee at the time designated for the holding of the meeting, the first business of the meeting must be the election of a Chairperson to preside at the meeting.

The election must be conducted:

- a by the General Manager or, in his or her absence, an employee of the Council designated by the General Manager to conduct the election; or
- b if neither of them is present at the meeting or there is no General Manager or designated employee - by the person who called the meeting or a person acting on his or her behalf.

R9

#### **3.3 Chairperson to Have Precedence**

When the Chairperson rises during a meeting of a Council:



- a any Councillor then speaking or seeking to speak must immediately resume his or her seat; and
- b every Councillor present must be silent to enable the Chairperson to be heard without interruption.

R10

### **3.4 Chairperson's Duty With Respect to Motions**

It is the duty of the Chairperson at a meeting of the Council to receive and put to the meeting any lawful motion that is brought before the meeting.

The Chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.

Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected.

R11

### **3.5 Order of Business**

At a meeting of the Council or Committee (other than an extraordinary meeting), the general order of business will be as follows such as the Council has fixed by resolution passed at any previous meeting or, if no such resolution has been passed, as follows:

R12(1)

The order of business at Ordinary Meetings shall be:

1. Prayer
2. Confirmation of Minutes
3. Apologies
4. Disclosure of Interest
5. Items to be Moved from Ordinary to Confidential - Confidential to Ordinary
6. Schedule of Outstanding Resolutions
7. Mayoral Minute
8. Items Deferred

9. Reports through General Manager
  - Director Planning & Environment
  - Executive Manager - Office of the General Manager
  - Director Engineering & Operations
  - Director Environment & Community
10. Reports from Subcommittees/Working Groups
11. Delegates Reports
12. Outstanding Inspections
13. Items of Information and Interest
14. Orders of the Day
15. Workshops
16. Questions Without Notice
17. Confidential Matters - (exclude Press and Public)

The order of business fixed as above may be altered if a motion to that effect is carried, such a motion can be moved without notice.

R12(2)

### **3.6 Business Papers for Council Meetings**

The General Manager must ensure that the business paper for a meeting of the Council or Committee states:

- a all matters to be dealt with arising out of the proceedings of former meetings of the Council or Committee; and
- b if the Mayor is the Chairperson - any business that the Chairperson may decide to put before the meeting without notice; and
- c any business of which due notice has been given.

R13(1)

The General Manager must cause the business paper for a meeting of the Council or a Committee of the Council to be prepared as soon as practicable before the meeting.

R13(3)

The General Manager must ensure that the details of any item of business to which Section 9(2A) of the Act applies are included in a business paper for the meeting concerned.

R13(4)

### **3.7 Giving Notice of Business**

The Council must not transact business at a meeting of the Council:

- a unless a Councillor has given notice of the business in writing within such time before the meeting as is fixed by this code of meeting practice; or as is fixed by resolution of the Council, and
- b unless notice of the business has been sent to the Councillors in accordance with Section 367 of the Act.

R14(1)

Sub Clause does not apply to the consideration of business at a meeting if the business was considered at an earlier meeting of the Council.

R14(2)

Despite this Sub Clause business may be transacted at a meeting of a Council even though due notice of the business has not been given to Councillors, but only if:

- a a motion is passed to have the business transacted at the meeting; and
- b the business proposed to be brought forward is ruled by the Chairperson to be of great urgency

Such a motion can be moved without notice.

R14(3)

Only the mover of a motion referred to above can speak to the motion before it is put.

R14(4)

1. No item in the Business Papers and no attachment thereto (Development Control Plans, s94 Plans, Conditions of Consent, General Manager's Quarterly Report and the like excepted) is to individually exceed twenty (20) pages in length, and no item is to be split to circumvent this restriction.
2. All attachments to the Business Paper are to be paginated and indexed, and page referenced in the relevant item in the Business Papers, or alternatively tab indexed.

3. All late arriving/departing correspondence and all memoranda relevant to a matter in the Business Papers, is to be immediately communicated to all Councillors unless there is compelling reason(s) for departure from this rule.
4. No matter is to be unreasonably held back by Council's staff so as to cause a matter to become urgent. An explanation for any departure from this rule will be provided by the General Manager.
5. Items relating to Development Applications are to clearly indicate the options available to Council, including the concise, practical and legal ramifications of each option.
6. Suggested amendments to a previous draft Development Control Plan, s94 Plan, Conditions of Consent and the like are to be incorporated into the complete document (by italics or underlining) to enable the amendments to be read in context.

(TSC Policy 3/5/2000)

### **3.8 Business Paper for Extraordinary Meetings**

The General Manager must ensure that the business paper for an extraordinary meeting of the Council deals only with the matters stated in the notice of the meeting.

Despite the sub-clause business may be transacted at an Extraordinary meeting of Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:

- a a motion is passed to have the business transacted at the meeting; and
- b the business proposed to be brought forward is ruled by the Chairperson to be of great urgency.

Such a motion can be moved without notice but only after the business notified in the business paper for the meeting has been disposed of.

Only the mover of a motion referred to in the immediate sub-clause can speak to the motion before it is put.

R15

Unless established to the reasonable satisfaction of the General Manager, and then only in a case of great urgency, no item will be considered by Council unless a minimum of three (3) clear days' notice is given.

(TSC Policy 3/5/2000)

### **3.9 Business Paper Distribution**

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Copies are to be available to the public as nearly as possible to the time they are available to Councillors.

S9(3)

### **3.10 Expressing an Interest in an Item**

Where a Councillor expresses an interest in an Item on the Agenda and leaves the Chamber that Councillor be asked to return to the Chamber before Council/Committee proceeds to the next item of business.

(TSC Policy)

### **3.11 Community Access**

1. Community Access is your opportunity to informally address Councillors and staff on your issue of concern.
2. Community Access is held in the Council Chambers, Murwillumbah on the second Wednesday of each month and commences at 4.30pm.
3. To make an appointment please ring The Administrative Officer on (02) 6670 2540. A time will be allocated for you to address Council. You will need to provide a basic outline of the matter/s you wish to raise with Council and you are invited to leave a contact telephone number and address should Councillors wish to follow matters through with you.
4. Where the requests from an individual or group relates to a matter of complexity and community sensitivity the General Manager, in consultation with the Mayor, shall determine if the presentation would be better dealt with at a Workshop instead of Community Access.
5. It is unacceptable for people in their address to Council or in their responses to questions to make allegations that any resident, member of Council staff, Councillor or other person has acted improperly with regard to their duties or obligations, or has acted in a way that would be unlawful.
6. Any complaints or allegations regarding the conduct of elected representatives, management and staff must be in writing and directed to the General Manager
7. Each speaker is allowed five (5) minutes to present their case. Additional presentation time may be approved by the General Manager at the time of booking, by request.
8. Only one speaker will be allowed to speak on any one subject. Where a deputation is making a presentation a spokesperson is to be

nominated to present the deputation and to address the Community Access meeting.

9. At the end of five (5) minutes you will hear an electronic beeper. You will have to stop speaking. The Mayor will ask if Councillors are prepared to extend your allowed time and a vote will be taken on whether the extra time that you indicate you need will be granted.
10. At the conclusion of your address Councillors will be invited to ask questions relating to that address. You may answer such questions but are unable to ask questions of Councillors and/or staff yourself. A summary or comment may be provided by the Mayor, General Manager or Directors as appropriate.
11. The Community Access Meeting is not a Council Meeting, thus no decisions can be made.
12. The meeting does not provide any protection from civil action arising from allegations or any libellous comments.'

(TSC Policy)

### **3.12 Workshops - Venue**

When the number of attendees permits the Council Chamber shall be used for Workshop Meetings of Councillors and staff in preference to other meeting rooms in the Civic Centre at Murwillumbah.

(TSC Policy)

### **3.13 Workshops – Conduct**

Workshops will not be held more than twenty-one (21) days before the matter the subject of same, is considered by Council.

(TSC Policy 3/5/2000)

### **3.14 Official Minutes (Mayoral Minute)**

If the Mayor is the Chairperson at a meeting of a Council, the Chairperson is, by minute signed by the Chairperson, entitled to put to the meeting without notice any matter or topic that is within the jurisdiction of the Council or of which the Council has official knowledge.

R16(1)

Such a minute, when put to the meeting, takes precedence over all business on the Council's business paper for the meeting. The Chairperson (but only if the Chairperson is the Mayor) may move the adoption of the minute without the motion being seconded.

R16(2)

A recommendation made in a minute of the Chairperson (being the Mayor) or in a report made by the Council employee is, so far as adopted by the Council, a resolution of the Council.

R16(3)

### **3.15 Confirmation of Minutes**

*The motion proposing the adoption of the minutes, as an accurate statement of the business transacted at the previous meeting must be dealt with before proceeding to consider other items of business.*

*A motion to adopt the minutes must be proposed and seconded and may be subject to debate.*

*A debate on the motion to adopt the minutes of the previous meeting is restricted to their accuracy as a true record of the proceedings.*

*Minutes of a General Meeting of Council may be confirmed at an Extraordinary Meeting of the Council.*

*Minutes of an Extraordinary Meeting of Council may be confirmed at a General meeting of the Council.*

### **3.16 Report of a Departmental Representative to be Tabled at Council Meeting**

When a report of a Departmental representative has been presented to a meeting of the Council in accordance with Section 433 of the Act, the Council must ensure that the report:

- (a) is laid on the table at that meeting; and
- (b) is subsequently available for the information of Councillors and members of the public at all reasonable times.

R17

### **3.17 Motions in Writing**

All motions put before Council which are not exactly as presented on the agenda are to be supplied, in writing, to the Chairperson before the mover may proceed.

(TSC Policy)

### **3.18 Notice of Motion**

Notice of Motion in writing must be delivered to the General Manager before 4.00pm on the Thursday preceding the Ordinary Meeting of Council so as to be listed on the Orders of the Day Agenda.

(TSC Policy)

### **3.19 Notice of Motion - Absence of Mover**

In the absence of a Councillor who has placed a notice of motion on the business paper for a meeting of a Council:

- (a) any other Councillor may move the motion at the meeting; or
- (b) the Chairperson may defer the motion until the next meeting of the Council at which the motion can be considered.

R18

### **3.20 Unacceptable Motions**

*The Chair may rule that a Motion or an amendment is out of order if, in the view of the Chair, the proposed motion:*

- is vague and equivocal in its language;*
- is the direct negative of or is inconsistent with a resolution just passed by the meeting;*
- is an amendment which is a direct negative of the motion which it proposes to amend;*
- proposes an action that is unlawful;*
- is ultra vires in that it is outside the scope of the meeting;*
- has defamatory statements contained in the resolution;*
- is unnecessary in that it proposes a course of action or policy already resolved upon by the meeting; and*
- is vexatious and is proposed solely as a way to impede the orderly transaction or business.*

### **3.21 Motions to be Seconded**

A motion or an amendment cannot be debated unless or until it has been seconded, except as otherwise provided herein.

R19

### **3.22 How Subsequent Amendments May Be Moved**

If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendments was moved, and so on, but no



more than one motion and one proposed amendment can be before the Council at any one time.

R20

### **3.23 Motions Put Without Formal Debate**

*Provided there is no objection from any Councillor present, any motion or recommendation before the Council may be put to the vote without discussion or debate.*

### **3.24 Motions of Dissent**

A Councillor can, without notice, move to dissent from the ruling of the Chairperson on a point of order. If that happens, the Chairperson must suspend the business before the meeting until a decision- is made on the motion of dissent.

R21(1)

If a motion of dissent is carried, the Chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the Chairperson must restore the motion or business - to the business paper and proceed with it in due course.

R21(2)

Only the mover of a motion of dissent and the Chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

R21(3)

### **3.25 Question Time**

1. All Questions, other than those to another Councillor, be submitted to the General Manager prior to the commencement of the Council meeting to enable officers to prepare a response.
2. The Mayor to identify the source of the question and read the question out at the conclusion of the Ordinary Council Agenda, prior to consideration of Confidential items.
3. The General Manager be required to provide to the next Ordinary meeting a response to the question. If a high level of research is required to satisfy all aspects of the question the report is to indicate an approximate cost and resource requirements. Council is then to consider, if the brief response is adequate or if it is prepared to commit or reallocate resources to complete a detailed response.

4. Questions once read to the meeting will, if possible be responded to via the Chairperson by the General Manager or Director, or by memo to all Councillors prior to the next meeting of Council, or by report to the next Ordinary Council meeting.
5. Clarification questions to a response will only be considered when in writing for a further response to the next meeting of Council.
6. For matters of urgency, elected members are encouraged to raise the matter directly with the General Manager or appropriate Director at the time of the concern.
7. The Chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or a Council employee.  
(TSC Policy)

### **3.26 Limitation as to Number of Speeches**

A Councillor who, during a debate at a meeting of a Council, moves an original motion has the right of reply to all observations that are made by other Councillors during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.

This is interpreted that the mover of the motion has only the right of reply at the conclusion of the debate and may only speak once on any amendment.

R23(1)

A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.

R23(2)

A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than five (5) minutes at any one time. However, the Chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than five (5) minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.

R23(3)

### **3.27 Motion Be Now Put**

Despite Regulations 23(1) & 23(2), if at least two (2) Councillors have spoken in favour of a motion or an amendment and at least two (2) Councillors have spoken against the motion or amendment, any Councillor may move that the question be now put.

R23(4)

The Chairperson must immediately put to the vote a motion that the question be now put without the motion being seconded and without debate.

R23(5)

If a motion that the question be now put is passed, the Chairperson must, after the mover of the motion has exercised his or her right of reply under Regulation 23(1) immediately put the question to the vote without further debate.

R23(6)

If a motion that the question be now put is rejected, the Chairperson must resume the debate on the original motion or amendment.

R23(7)

Notwithstanding anything in this Code the Chairperson may not accept a motion that the motion be put while a Councillor is speaking in accordance with this Code, nor while a question, properly asked by a Councillor, awaits a response in accordance with a direction of the Chairperson.

Min 1570 18/2/98

### **3.28 Voting at Council Meetings**

Each Councillor is entitled to one vote.

However, the person presiding at a meeting of the Council has, in the event of an equality of votes, a second or casting vote.

(Sec 370)

A Councillor who is present at a meeting of the Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.

R24(1)

If a Councillor who has voted against a motion put at the Council meeting so requests, the General Manager must ensure that the Councillors' dissenting vote is recorded in the Council's minutes.

R24(2)

The decision of the Chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two (2) Councillors rise and demand a division.

R24(3)

When a division on a motion is demanded, the Chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes.

R24(4)

**3.29 What Constitutes a Decision of the Council?**

A decision supported by a majority of the votes at a meeting of the Council at which a quorum is present is a decision of the Council.

(Sec 371)

**3.20 Rescinding or Altering Resolutions**

A resolution passed by the Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with the Council's code of meeting practice.

If a notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.

If a motion has been negated by a Council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with the Council's code of meeting practice.

A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negated by the Council, must be signed by 3 Councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negated, as the case may be.

If a motion to alter or rescind a resolution has been negated, or if a motion which has the same effect as a previously negated motion, is negated, no similar motion may be brought forward within 3 months. This subsection may not be evaded by substituting a motion differently worded, but in principle the same.

A motion to which this section applies may be moved on the report of a Committee of the Council and any such report must be recorded in the minutes.

The provisions of this section concerning negated motions do not apply to motions of adjournment.

(Sec 372)

**3.31 Committee of Council**

The Council may resolve itself into a Committee to consider any matter before the Council.

(Sec 373)

### **3.32 Outstanding Resolutions**

No debate is to be allowed on Outstanding Resolutions. Any changes to or debate on Outstanding Resolutions should only be by way of a Notice of Motion or a report to Council.

(TSC Policy)

## **4. KEEPING ORDER AT MEETINGS**

### **4.1 Questions of Order**

The Chairperson, without the intervention of any other Councillor, may call any Councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.

R28(1)

A Councillor who claims that another Councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson on the matter.

R28(2)

The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the Council.

R28(3)

The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

R28(4)

### **4.2 Points of Order**

*Where a Councillor has drawn to the attention of the Chair an alleged act of disorder, the Chair must rule on the question of order immediately after it is raised.*

*A point of order may refer to any procedural matter relating to the orderly conduct of the meeting and without limitation may include:*

- Councillors speaking or whispering while other Councillor is addressing the meeting;*
- verbal interjections;*
- failure to observe proper meeting procedures;*
- public discourtesy to fellow Councillors during the meeting;*
- exceeding time limits without the agreement of the meeting;*

- addressing the meeting without the permission of the Chair;*
- any actions or comments that could be considered to be a breach of the Council's Code of Conduct.*

#### **4.3 Acts of Disorder**

A Councillor commits an act of disorder if the Councillor, at a meeting of the Council or a Committee of a Council:

- a contravenes the Act or any regulation in force under the Act; or
  - b assaults or threatens to assault another Councillor or person present at the meeting; or
  - c moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or Committee on such a motion, amendment or matter; or
  - d insults or makes personal reflections on or imputes improper motives to any other Councillor; or
  - e says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or Committee into contempt.
- R29(1)

The Chairperson may require a Councillor:

- a to apologise without reservation for an act of disorder referred to in Regulation 29(1); or
  - b to withdraw a motion or an amendment referred to in Regulation 29(1), and, where appropriate, to apologise without reservation; or
  - c to retract and apologise without reservation for an act of disorder referred to in Regulation 29(1).
- R29(2)

The Council or a Committee of the Council may, by resolution, expel from a meeting a Councillor who fails to comply with a requirement made under Regulation 29(1). The expulsion of a Councillor under this Regulation does not prevent any other action from being taken against the Councillor for the act of disorder concerned.

R29(3)

#### **4.4 How Disorder at a Meeting May Be Dealt With**

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If disorder occurs at a meeting of a Council, the Chairperson may adjourn the meeting for a period of not more than fifteen (15) minutes and leave the chair. The Council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This Sub Clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of Councillors.

R30(1)

The Council may, by resolution, expel a member of the public from the Council meeting on the grounds that the member is engaging in or has, at the meeting, engaged in disorderly conduct.

R30(2)

A person who is expelled or removed from a Council Meeting shall vacate Floor 1 during office hours and after office hours vacate the Tweed Shire Council building.

Min 725 20/2/02

#### **4.5 Power to Remove Persons From Meeting After Expulsion Resolution**

If a Councillor or a member of the public fails to leave the place where a meeting of Council is being held:

- a. immediately after the Council has passed a resolution expelling the Councillor member from the meeting; or
- b. Where the Council has authorised the person presiding at the meeting to exercise the power of expulsion – immediately after being directed by the person presiding to leave the meeting.

A Police Officer or any person authorised for the purpose by the Council or person presiding may be using only such force as is necessary. Remove the Councillor or member from the place and if necessary restrain the Councillor or member from re-entering that place.

R31

### **5. COUNCIL COMMITTEES**

#### **5.1 Committee of the Whole**

All the provisions of this Regulation relating to meetings of a Council, so far as they are applicable, extend to and govern the proceedings of the Council when in Committee of the Whole, except the provision limiting the number and duration of speeches.

R30(1)

The General Manager is responsible for reporting to the Council proceedings in Committee of the Whole. It is not necessary to report the proceedings in full but any recommendations of the Committee must be reported.

R30(2)

The Council must ensure that a report of the proceedings is recorded in the Council's Minutes. However, the Council is not taken to have adopted the report until a motion for adoption has been made and passed.

R30(3)

## **5.2 Council May Establish Committees**

The Council may appoint or elect such Committees as it considers necessary.

A Committee is to consist of the Mayor and such other Councillors as are elected by the Councillors or appointed by the Council.

The quorum for a meeting of such a Committee is to be:

- a such number of members as the Council decides; or
- b if the Council has not decided a number - a majority of the members of the Committee.

R33

## **5.3 Functions of Committees**

The Council must specify the functions of each of its Committees when the Committee is established, but may from time to time amend those functions.

R34

## **5.4 Notice of Committee Meetings to be Given**

The General Manager of a Council must send to each Councillor, at least three (3) days before each meeting of the Committee, a notice specifying:

- a the time and place at which and the date on which the meeting is to be held; and
- b the business proposed to be transacted at the meeting.

However, notice of less than three (3) days may be given of a Committee meeting called in an emergency.

R35

## **5.5 Non Members Entitled to Attend Committee Meetings**



A Councillor who is not a member of a Committee of the Council is entitled to attend and speak at a meeting of the Committee. However the Councillor is not entitled:

- a. to give notice of business for inclusion in the Agenda for the meeting
- b. to move or second a motion at the meeting or
- c. to vote at the meeting.

R36

## **5.6 Procedure in Committees**

Each Committee of the Council may regulate its own procedure.

R37(1)

Without limiting Regulation 37(1) a Committee of the Council may decide that, whenever the voting on a motion put to a meeting of the Committee is equal, the Chairperson of the Committee is to have a casting vote as well as an original vote.

R37(2)

Voting at a Committee Meeting is to be by open means (such as on the voices or by show of hands).

R38(3)

## **5.7 Committees to Keep Minutes**

Each Committee of a Council must ensure that full and accurate minutes of the proceedings of its meetings are kept. In particular a Committee must ensure that the following matters are recorded in the Committee Minutes:

- a. details of each motion moved at a meeting and of any amendments to it
- b. the names of the mover and seconder of the motion or amendment
- c. whether the motion or amendment is passed or lost.

R39(1)

As soon as the minutes of an earlier meeting of a Committee of the Council have been confirmed at a later meeting of the Committee, the person presiding at the later meeting must sign the minutes of the earlier meeting.

R39(2)

## **5.8 Chairperson and Deputy Chairperson of Committees**

The Chairperson of each Committee of the Council, must be:

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- a the Mayor; or
- b if the Mayor does not wish to be the Chairperson of a Committee - a member of the Committee elected by the Council; or
- c if the Council does not elect such a member - a member of the Committee elected by the Committee.

R40(1)

A Council may elect a member of a Committee of the Council as Deputy Chairperson of the Committee. If the Council does not elect a Deputy Chairperson of such a Committee, the Committee may elect a Deputy Chairperson.

R40(2)

If neither the Chairperson nor the Deputy Chairperson of a Committee of the Council is able or willing to preside at a meeting of the Committee, the Committee must elect a member of the Committee to be Acting Chairperson of the Committee.

R40(3)

The Chairperson is to preside at a meeting of a Committee of a Council. If the Chairperson is unable or unwilling to preside, the Deputy Chairperson (if any) is to preside at the meeting, but if neither the Chairperson nor the Deputy Chairperson is able or willing to preside, the Acting Chairperson is to preside at the meeting.

R40(4)

## **5.9 Absence from Committee Meetings**

A member ceases to be a member of a Committee if the member (other than the Mayor):

- a has been absent from three (3) consecutive meetings of the Committee without having given reasons acceptable to the Committee for the member's absence; or
- b has been absent from at least half of the meetings of the Committee held during the immediately preceding year without having given to the Committee acceptable reasons for the member's absences.

This Regulation does not apply if all of the members of the Council are members of the Committee.

R41

## **5.10 Reports of Committees**

If in a report of a Committee of the Council distinct recommendations are made, the decision of the Council may be made separately on each recommendation.

R42(1)

The recommendations of a Committee of the Council are, so far as adopted by the Council, resolutions of the Council.

R42(2)

If a Committee of a Council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting, that is closed to the public, the Chairperson must:

- a make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended; and
- b report the resolution or recommendation to the next meeting of the Council.

R42(3)

#### **5.11 Disorder in Committee Meetings**

The provisions of this Code and of the Act and Regulations relating to the maintenance of order in Council meetings apply to meetings of Committees of the council in the same way as they apply to meetings of the Council.

R43

#### **5.12 Committee May Expel Certain Persons From Its Meetings**

If a meeting or part of a meeting of a Committee of the Council is closed to the public in accordance with Section 10(2) of the Act, the Committee may, by resolution, expel from the place where the meeting is being held any person who is not a Councillor.

R44(1)

If any such person, after being notified of such a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised by the Council for the purpose, may remove the person from, and, if necessary, restrain the person from re-entering that place.

R44(2)

### **6. MISCELLANEOUS**

#### **6.1 Information Relating to Proceedings at Closed Meetings Not To Be Disclosed**

If a meeting or part of a meeting of the Council or a Committee of the Council is closed to the public in accordance with Section 10A(1) of the Act, a person must not, without the authority of the Council or the Committee, disclose, otherwise than to the Council or to a Councillor of the Council, information with respect to the discussion at, or the business of, the meeting.

This Clause does not apply:

- a to the report of a Committee of the Council when presented to the Council; or
  - b disclosure made in circumstances prescribed by the Regulations
  - c any agenda resolution or recommendation of a meeting that a person is entitled to inspect in accordance with Section 12.
- (Sec 664)

## **6.2 Inspection of the Minutes of the Council or Committee**

An inspection of the minutes of the Council or Committee of the Council is to be carried out under the supervision of the General Manager or an employee of the Council designated by the General Manager to supervise inspections of those minutes.

The General Manager must ensure that the minutes of the Council and any minutes of a Committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

R46

## **6.3 Tape Recording of Meeting of Council or Committee Prohibited Without Permission**

A person may use a tape recorder to record the proceedings of a meeting of the Council or a Committee of the Council only with the authority of the Council or Committee.

The Council or Committee may, by resolution, expel from the place where it is holding a meeting any person who uses a tape recorder in contravention of this Clause.

If any such person, after being notified of such a resolution, fails to leave the place where the meeting is being held, a police officer, or any person authorised by the Council for the purpose, may remove the person from, and, if necessary, restrain the person from re entering, that place.

In this Clause, tape recorder includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not.

#### **6.4 Certain Circumstances Do Not Invalidate Council Decisions**

Proceedings at a meeting of the Council or a Council Committee are not invalidated because of:

- a a vacancy in a civic office; or
- b a failure to give notice of the meeting to any Councillor or Committee member; or
- c any defect in the election or appointment of a Councillor or Committee member; or
- d a failure of a Councillor or a Committee member to disclose a pecuniary interest at the Council or Committee meeting in accordance with Section 451; or
- e a failure to comply with the code of meeting practice.

(Sec 374)

#### **6.5 Minutes**

The Council must ensure that full and accurate minutes are kept of the proceedings of a meeting of the Council.

The minutes must, when they have been confirmed at a subsequent meeting of the Council, be signed by the person presiding at that subsequent meeting.

(Sec 375)

#### **6.6 Attendance of General Manager at Meetings**

The General Manager is entitled to attend, but not to vote at, a meeting of the Council or a meeting of a Committee of the Council of which all the members are Councillors.

The General Manager is entitled to attend a meeting of any other Committee of the Council and may, if a member of the Committee, exercise a vote.

However, the General Manager may be excluded from a meeting of the Council or a Committee while the Council or Committee deals with a matter relating to the standard of performance of the General Manager or the terms of the employment of the General Manager.

(Sec 376)

#### ***FOR VOTE - Unanimous***

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**ABSENT. DID NOT VOTE - Cr Carroll**

**8 [OGM] Corporate Quarterly Report - April to June 2004**

**543 RESOLUTION:**

**Cr M R Boyd  
Cr J F Murray**

**RESOLVED** that this report be:

1. Received and noted.
2. Placed in the libraries for public information.

**FOR VOTE - Unanimous  
ABSENT. DID NOT VOTE - Cr Carroll**

**9 [OGM] Shires Association of NSW - The Councillor Weekend, 27-28 August 2004**

**544 RESOLUTION:**

**Cr J F Murray  
Cr G B Bell**

**RESOLVED** that:

1. Any interested Councillor/s be authorised to attend The Councillor Weekend in Sydney on 27 and 28 August 2004.  
  
(Cr Bell and Holdom indicated an interest in attending.)
2. The Mayor's Secretary organise the registration of any interested Councillor/s.

**FOR VOTE - Unanimous  
ABSENT. DID NOT VOTE - Cr Carroll**

**10 [OGM] NSW Regional Sustainability 2004 Seminar - Lismore**

**545 RESOLUTION:**

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**Cr M R Boyd**  
**Cr J F Murray**

**RESOLVED** that any Councillors interested in attending such a seminar please contact the Manager Administration Services.

**FOR VOTE - Unanimous**  
**ABSENT. DID NOT VOTE - Cr Carroll**

**11 [OGM] In Kind and Real Donations - April to June 2004**

**546 RESOLUTION:**

**Cr M R Boyd**  
**Cr S M Dale**

**RESOLVED** that this report be received and noted.

**FOR VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Bell, Cr Lawrie, Cr Holdom, Cr Boyd, Cr Dale, Cr James**  
**AGAINST VOTE - Cr Beck**  
**ABSENT. DID NOT VOTE - Cr Carroll**

**12 [OGM] Complaints Against Council 2002/2003**

**547 RESOLUTION:**

**Cr M R Boyd**  
**Cr S M Dale**

**RESOLVED** that this report be received and noted.

**FOR VOTE - Unanimous**  
**ABSENT. DID NOT VOTE - Cr Carroll**

**a12 [OGM] Rating Task Force - Local Government and Shires Association**

**LATE ITEM**

**548 RESOLUTION:**

**Cr R D Brinsmead**  
**Cr L F Beck**

**RESOLVED** that Item a12 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

***FOR VOTE - Unanimous***  
***ABSENT. DID NOT VOTE - Cr Carroll***

**549 RESOLUTION:**

**Cr M R Boyd**  
**Cr H James**

**RESOLVED** that this report be received and noted.

***FOR VOTE - Unanimous***  
***ABSENT. DID NOT VOTE - Cr Carroll***

**REPORTS FROM DIRECTOR ENGINEERING AND OPERATIONS**

**13 [ES] NSW Road Classification Review**

**550 RESOLUTION:**

**Cr M R Boyd**  
**Cr G J Lawrie**

**RESOLVED** that Council makes a submission to the NSW Road Classification Review Panel that Terranora Road be reclassified to a local road and that Clothiers Creek Road become a Regional Road.

***FOR VOTE - Unanimous***  
***ABSENT. DID NOT VOTE - Cr Carroll***

**14 [ES] Roads Grants 2004/2005**

**551 RESOLUTION:**

**Cr M R Boyd**  
**Cr G B Bell**

**RESOLVED** that Council:-

1. Accepts the Grants under the terms and conditions of the "Arrangements with Councils for Road Management."



2. Votes the expenditure.
3. All necessary documents be completed under the Common Seal of Council.

**FOR VOTE - Unanimous**  
**ABSENT. DID NOT VOTE - Cr Carroll**

**15 [ES] Dedication of Land as Road - Piggabeen Road Deviation**

**552 RESOLUTION:**

**Cr M R Boyd**  
**Cr G B Bell**

**RESOLVED** that Council executes and endorses the plan creating the road reserve for the Piggabeen Road deviation at Tweed Heads West under the Common Seal of Council.

**AMENDMENT**

**Cr H James**  
**Cr D M Holdom**

**PROPOSED** that this item be deferred in order to receive the plan.

The Amendment was **Lost**

**FOR VOTE - Cr Holdom, Cr Dale, Cr James**  
**AGAINST VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr Bell, Cr Lawrie, Cr Boyd**  
**ABSENT. DID NOT VOTE - Cr Carroll**

The Motion was **Carried**

**FOR VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr Bell, Cr Lawrie, Cr Boyd, Cr Dale**  
**AGAINST VOTE - Cr Holdom, Cr James**  
**ABSENT. DID NOT VOTE - Cr Carroll**

**16 [ES] Taxi Rank Marine Parade: Proposed Relocation to Seaview Street**

**553 RESOLUTION:**

**Cr R D Brinsmead**

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**Cr J F Murray**

**RESOLVED** that the Taxi Rank in Marine Parade Kingscliff be relocated to the northern side of Seaview Street Kingscliff between Marine Parade and Pearl Street.

**AMENDMENT**

**Cr D M Holdom  
Cr G J Lawrie**

**PROPOSED** that this item be deferred pending further discussions with the operator of the taxi service.

The Amendment was **Lost** on the casting vote of the Mayor.

**FOR VOTE - Cr Bell, Cr Lawrie, Cr Holdom, Cr Boyd, Cr Dale  
AGAINST VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr James  
ABSENT. DID NOT VOTE - Cr Carroll**

The Motion was **Carried**

**FOR VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr Bell, Cr Lawrie, Cr Boyd, Cr Dale, Cr James  
AGAINST VOTE - Cr Holdom  
ABSENT. DID NOT VOTE - Cr Carroll**

**17 [ES] Classification of Land at Duranbah**

**554 RESOLUTION:**

**Cr L F Beck  
Cr G J Lawrie**

**RESOLVED** that Lot 1 in DP 1069562 be classified as "Operational" under Section 31 of the Local Government Act 1993.

**FOR VOTE - Unanimous  
ABSENT. DID NOT VOTE - Cr Carroll**

**18 [ES] Riversymposium 2004, Brisbane**

**555 RESOLUTION:**

**Cr M R Boyd  
Cr S M Dale**

**RESOLVED** that the Chair of the Tweed River Committee and Tweed Coastal Committee be invited to attend the Conference along with relevant staff and that Council determines other Councillor attendance at the Conference.

**FOR VOTE - Unanimous**

**ABSENT. DID NOT VOTE - Cr Carroll**

**19 [ES] Draft Development Control Plan No. 5 - Development of Flood Liable Land**

**Cr M R Boyd**

**Cr H James**

**PROPOSED** that in accordance with the environmental Planning and Assessment Regulation 2000, Council:-

- 1) Repeal the existing version of Development control Plan No. 5 - Development of Flood Liable Land and
- 2) Approve as a replacement draft "Development control Plan No. 5 - Development of Flood Liable Land version 2.2" with the alterations to the exhibited draft as detailed in the amended draft dated 4 August included with this report.

**556 AMENDMENT**

**Cr G J Lawrie**

**Cr J F Murray**

**RESOLVED** that this matter be deferred for a further Workshop.

**557 RESOLUTION:**

**Cr D M Holdom**

**Cr J F Murray**

**RESOLVED** that an extension of 1 minute be granted to Cr G J Lawrie.

**FOR VOTE - Unanimous**

The Amendment was **Carried**

**FOR VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr Bell, Cr Lawrie, Cr Dale**

**AGAINST VOTE - Cr Holdom, Cr Boyd, Cr James**

**ABSENT. DID NOT VOTE - Cr Carroll**

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

**FOR VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr Bell, Cr Lawrie, Cr Dale**

**AGAINST VOTE - Cr Holdom, Cr Boyd, Cr James**

**ABSENT. DID NOT VOTE - Cr Carroll**

**REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY**

**20 [EC] Membership of Tweed Disability Access Committee**

**558 RESOLUTION:**

**Cr L F Beck**

**Cr G B Bell**

**RESOLVED** that Council approves the following for membership of Tweed Disability Access Committee for the term of this Council:-

Victor Sparks

\*Una Cowdroy

Milena Morrow

\*Jeff Needham

Janet Hadson

\*Stefan Zak

\*Stephen Pollitt

\*Bill McKennariey

\*Paige Ridgeway

\*Gail Martin

\*Ron Douglas

\*Jacqui Payne

**FOR VOTE - Unanimous**

**ABSENT. DID NOT VOTE - Cr Carroll**

**21 [EC] Australian Research Council (ARC) Project - Acid Sulfate Soils**

**559 RESOLUTION:**

**Cr M R Boyd**

**Cr S M Dale**

**RESOLVED** that this report be received and noted.

**FOR VOTE - Unanimous**

**ABSENT. DID NOT VOTE - Cr Carroll**

**22 [EC] Arts Northern Rivers Inc. - Final Meeting**

**560 RESOLUTION:**

**Cr M R Boyd  
Cr S M Dale**

**RESOLVED** that this report be received and noted.

***FOR VOTE - Unanimous  
ABSENT. DID NOT VOTE - Cr Carroll***

**23 [EC] Membership Tweed River Art Gallery Advisory Committee**

**561 RESOLUTION:**

**Cr M R Boyd  
Cr W J Polglase**

**RESOLVED** that the Tweed River Art Gallery Advisory Committee consist of:-

1. Mayor, Cr W Polglase and Cr M R Boyd (Councillor delegates)
2. Ms Meredith Dennis (Friends of the Gallery)
3. Shirley Kennedy, Ray Watson, Mrs Gayl McKay, Norman Wilson, Robyn Dowling, Mal Leckie, Poppy Ottley, Margot Anthony, Josie Flett, John Opit, Penny Sochacki, Judith Sutton (Community representatives).

***FOR VOTE - Unanimous  
ABSENT. DID NOT VOTE - Cr Carroll***

**REPORTS FROM SUB-COMMITTEES/WORKING GROUPS**

**1 Minutes of the Local Traffic Committee Meeting held Thursday 15 July 2004**

**562 RESOLUTION:**

**Cr M R Boyd  
Cr S M Dale**

**RESOLVED** that the Minutes of the Local Traffic Committee be adopted with the exception of those items which were considered individually hereunder.

***FOR VOTE - Unanimous***

**ABSENT. DID NOT VOTE - Cr Carroll**

**[LTC] 2. Bay Street/Stuart Street, Tweed Heads**

**R5270 Pt1; R0470 Pt2; Traffic - Parking Zones**

**563 RESOLUTION:**

**Cr M R Boyd  
Cr S M Dale**

**RESOLVED** that:-

1. The lower level public car park adjacent to Bay Street be converted to 4 hour time limited car parking.
2. The developer be formally requested to advise Council of their car parking plans for construction staff and in particular any proposed impacts on Bay Street traders. Councillors and Council staff would be prepared to meet with the developer to discuss this issue prior to work commencing.

**FOR VOTE - Unanimous**

**ABSENT. DID NOT VOTE - Cr Carroll**

**[LTC] 6. Marine Parade, Kingscliff**

**564 RESOLUTION:**

**Cr M R Boyd  
Cr S M Dale**

**RESOLVED** that subject to complying with standard requirements the additional following conditions should be included: -

1. Security guards and or volunteer staff are to be in attendance at all barricades on Marine Parade and Seaview Street for the duration of the road closures.
2. All affected businesses to be notified in writing of the road closures and any issues raised with the event coordinator and Council be addressed prior to the event.
3. Council notes the amended duration of closure of Area A is from 7.30am.

**FOR VOTE - Unanimous**

**ABSENT. DID NOT VOTE - Cr Carroll**

**[LTC] 10. Endeavor Parade, Tweed Heads**

**R1900; DW1063134; Traffic - Committee; Traffic - Local Area Traffic Management**

**565 RESOLUTION:**

**Cr M R Boyd  
Cr S M Dale**

**RESOLVED** that: -

1. The signage on Endeavour Parade, Tweed Heads be amended to exclude buses for the same time period as the trucks.
2. Surfside Buslines be formally advised of the change.

***FOR VOTE - Unanimous  
ABSENT. DID NOT VOTE - Cr Carroll***

**DELEGATES REPORTS**

Nil.

**OUTSTANDING INSPECTIONS**

Nil.

**ITEMS OF INFORMATION AND INTEREST**

Nil.

**ORDERS OF THE DAY**

**1 [NOR] Tweed Local Environmental Plan**

**NOTICE OF RESCISSION:**

**566 RESOLUTION:**

**Cr R D Brinsmead  
Cr G B Bell**

**RESOLVED** that Council's resolution at Minute 524 in relation to Item 2 of the Orders of the Day of the meeting held on 21 July 2004 being:

*"...that the Tweed Local Environmental Plan be amended to set a height limit of two stories for land zoned for urban purposes west of the Coast Road in Hastings Point."*

be rescinded.

## PROCEDURAL MOTION

### 567 RESOLUTION:

Cr L F Beck

**RESOLVED** that the Motion be put.

**FOR VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr Bell, Cr Lawrie, Cr Holdom, Cr Boyd**

**AGAINST VOTE - Cr Dale, Cr James**

**ABSENT. DID NOT VOTE - Cr Carroll**

The Rescission Motion was **Carried**

**FOR VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr Bell, Cr Lawrie**

**AGAINST VOTE - Cr Holdom, Cr Boyd, Cr Dale, Cr James**

**ABSENT. DID NOT VOTE - Cr Carroll**

## 2 [NOM] Section 149 Certificates

### NOTICE OF MOTION:

### 568 RESOLUTION:

Cr G J Lawrie

Cr L F Beck

**RESOLVED** that a report be prepared on "puting in place" a procedure for the processing of URGENT applications for S149 Certificates to be made available to the applicant within, say, two (2) hours of lodgement of the application and appropriate fee, in lieu of the current forty-eight (48) hours.

## TEMPORARY ABSENCE FROM MEETING

**Cr Dale left the meeting at 05:25 PM**

**Cr Brinsmead left the meeting at 05:25 PM**

**FOR VOTE - Unanimous**

**ABSENT. DID NOT VOTE - Cr Brinsmead, Cr Carroll, Cr Dale**



## **RETURN TO MEETING**

**Cr Dale has returned from temporary absence at 05:28 PM**

**Cr Brinsmead has returned from temporary absence at 05:28 PM**

### **3 [NOM] Grey Water Reuse**

#### **NOTICE OF MOTION:**

#### **569 RESOLUTION:**

**Cr G J Lawrie**

**Cr L F Beck**

**RESOLVED** that a report be brought forward about the feasibility/possible incentive(s) for encouraging ratepayers to collect and divert household grey water for garden use in lieu of entering the sewerage system.

***FOR VOTE - Unanimous***

***ABSENT. DID NOT VOTE - Cr Carroll***

### **4 [NOM] Apprentices**

#### **NOTICE OF MOTION:**

**This item was withdrawn.**

### **5 [NOM] Old Tweed River Art Gallery Site**

#### **NOTICE OF MOTION:**

#### **570 RESOLUTION:**

**Cr G J Lawrie**

**Cr R D Brinsmead**

**RESOLVED** that a report be prepared on possible uses after June 2005 for the old Art Gallery in Tumbulgum Road and that the public be invited to have input into the future use of the building.

***FOR VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr Bell, Cr Lawrie, Cr Holdom, Cr Boyd, Cr Dale***

***AGAINST VOTE - Cr James***

***ABSENT. DID NOT VOTE - Cr Carroll***

## **WORKSHOPS**

Nil.

## **QUESTION TIME**

### **1 Tree Planting, Pandanus Road, Cabarita Beach**

**Cr J F Murray**

Noted that extensive tree planting has occurred behind the surf club on Pandanus Parade, Cabarita and asked: -

1. Was this tree planting authorised by Council?
2. Might this tree planting present problems down the track especially as the outcomes are not known?
3. Will Council now take steps to remedy the unauthorised activity?

The Director Engineering and Operations, Mr Rayner, inspected the site on Monday and in discussion believes that the tree planting does not present any problems and that no action will be taken at this time.

### **2 Terranora Quarry**

**Cr G J Lawrie**

Asked has Council received any advice from the NSW Government on consent of Terranora Quarry.

The Director Planning and Environment responded that no response has been received to date.

## **COMMITTEE OF THE WHOLE**

### **571 RESOLUTION:**

**Cr G J Lawrie**

**Cr G B Bell**

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

***FOR VOTE - 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:-

## **ITEMS DEFERRED IN COMMITTEE**

### **[ID][DS] Application to Modify Development Consent 98/79 Involving Unauthorised Enclosed of Ground Floor of Dwelling in a Flood Prone Area**

#### **REASON FOR CONFIDENTIALITY:**

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

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

#### **C 123 RESOLUTION:**

That this matter be deferred following the DCP Workshop and after a decision has been made on the DCP.

***FOR VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr Bell, Cr Lawrie, Cr Holdom, Cr Boyd, Cr Dale***

***AGAINST VOTE - Cr James***

***ABSENT. DID NOT VOTE - Cr Carroll***

## **REPORTS THROUGH GENERAL MANAGER IN COMMITTEE**

## **REPORTS FROM DIRECTOR PLANNING & ENVIRONMENT IN COMMITTEE**

## **REPORTS FROM EXECUTIVE MANAGER - OFFICE OF THE GENERAL MANAGER IN COMMITTEE**

- 1 **[OGM] Minutes of Steering Committee - Lot 490 South Kingscliff**

**REASON FOR CONFIDENTIALITY:**

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

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

**C 124 RESOLUTION:**

That this report be received and noted.

**FOR VOTE - Unanimous**

**ABSENT. DID NOT VOTE - Cr Carroll**

**REPORTS FROM DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE**

**2 [ES] EC2004-051 Banora Point Sewerage Treatment Plant - Inlet Works Building Refurbishment**

**REASON FOR CONFIDENTIALITY:**

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

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

**C 125 RESOLUTION:**

That:-

1. Council awards the Contract 'EC2004-051: Banora Point Sewerage Treatment Plant – Inlet works building refurbishments' to Telfer & Co Pty Ltd for the lump sum price of \$172,660, exclusive of GST.
2. All documentation is to be completed under the Common Seal of Council.
3. The Director Engineering and Operations be given delegated authority to approve variations up to 20% of the initial contract price.

**FOR VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr Bell, Cr Holdom, Cr Boyd, Cr Dale, Cr James**

**AGAINST VOTE - Cr Lawrie**

**ABSENT. DID NOT VOTE - Cr Carroll**

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**3 [ES] Naming of Road Created by RTA between Clothiers Creek Road and the Round Mountain Overpass of the Motorway in the Locality of Tanglewood**

**REASON FOR CONFIDENTIALITY:**

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

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

**C 126 RESOLUTION:**

That Council:

1. Publicises its intention to name the road located between Clothiers Creek Road and the Round Mountain Overpass and adjacent to the Motorway at Tanglewood as "Watty Bishop Road", allowing one month for submissions.
2. Notifies the relevant authorities under the provisions of the Roads (General) Regulation 1994.

**FOR VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr Bell, Cr Lawrie, Cr Holdom, Cr Boyd, Cr Dale**

**AGAINST VOTE - Cr James**

**ABSENT. DID NOT VOTE - Cr Carroll**

**REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY IN COMMITTEE**

**4 [EC] HQ2003-158A Stotts Creek Landfill Facility - Solid Waste Landfill Expansion**

**REASON FOR CONFIDENTIALITY:**

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

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

**C 127 RESOLUTION:**

That:-

1. Council awards the Contract 'HQ2003-158A: Stotts Creek Landfill Facility – Solid Waste Landfill Expansion' to MJ & SL Seery Excavations Pty Ltd for the lump sum price of \$184,952.73, exclusive of GST.
2. All documentation is to be completed under the Common Seal of Council.
3. The Director Environment & Community Services be given delegated authority to approve variations up to 20% of the initial contract price.

**FOR VOTE - Cr Polglase, Cr Murray, Cr Brinsmead, Cr Beck, Cr Bell, Cr Holdom, Cr Boyd, Cr Dale, Cr James**  
**AGAINST VOTE - Cr Lawrie**  
**ABSENT. DID NOT VOTE - Cr Carroll**

**572 RESOLUTION:**

**Cr G B Bell**  
**Cr G J Lawrie**

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

**FOR VOTE - Unanimous**  
**ABSENT. DID NOT VOTE - Cr Carroll**

☞

There being no further business the Meeting terminated at 6.53.

☞

**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 98 of these Minutes**

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**Chairman**