

The Meeting commenced at 5.40pm.

IN ATTENDANCE

Administrators Mr Garry Payne (Chairman), Ms Lucy Turnbull, Mr Max Boyd.

Also present were Mr Mike Rayner (Acting General Manager), Mr Reg Norvill (Director Governance & Corporate Services), Mr Patrick Knight (Acting Director Engineering & Operations), Mr Noel Hodges (Director Planning & Development), Mr Don Buckley (Director Environment & Community Services), Mr Neil Baldwin (Governance Officer/Public Officer) and Mrs Meredith Smith (Minutes Secretary)

ABORIGINAL STATEMENT

Administrator Payne acknowledged the Bundjalung Aboriginal Nation with the following statement:

"We wish to recognise the generations of the local Aboriginal people of the Bundjalung Nation who have lived in and derived their physical and spiritual needs from the forests, rivers, lakes and streams of this beautiful valley over many thousands of years as the traditional owners of these lands."

PRAYER

The meeting opened with a Prayer by Council's Chaplain, Rev. Ian Proctor:

"Jesus said: Come to me, all you who are weary and burdened, and I will give you rest. Take my yoke upon you and learn from me, for I am gentle and humble in heart, and you will find rest for your souls. For my yoke is easy and my burden is light. (Mathew 11:28 - 30 NIV).

Almighty God, you have been the dwelling place of your people in all generations; your mercies are more than we can number, and your compassion is without end. You judge your people with wisdom and rule them with love: therefore we pray, give a spirit of discernment and understanding to the administrators who have been placed over us that they make wise decisions as they deal with the business of the Tweed Shire Council that is brought before the meeting here at Murwillumbah this afternoon. May all business be dealt with in an equitable and honourable way without fear prejudice or favour? God our Father and Creator, your hand is open wide to satisfy the need of every living creature: may this Tweed Shire Council be so minded and where appropriate give of its resources to assist those in need who are within its gates, its borders, especially those that are destitute or homeless and in urgent need of help, and make all of us ever thankful for your loving providence Father God. Mighty God, who's Word we trust, whose Spirit prays in our prayers: accept our requests for Tweed Shire Council and its Administrators and further those which will serve your purpose in this place; through Jesus Christ, who rules over all things. Amen."

May I on behalf of the Murwillumbah Ministers Fraternal extend to each of you, your families and your Council staff the Seasons Greetings? Have a very merry and joyous Christmas and a peaceful, happy and prosperous 2006.

CONFIRMATION OF MINUTES

Minutes of the Ordinary and Confidential Council Meetings held Wednesday 30 November 2005

586 COUNCIL DECISION:

**Administrator Turnbull
Administrator Boyd**

RESOLVED that the Minutes of the Ordinary and Confidential Council Meeting held 30 November 2005 be adopted as a true and accurate record of proceedings of that meeting.

FOR VOTE - Unanimous

APOLOGIES

Nil.

DISCLOSURE OF INTEREST

Nil.

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

Nil.

SCHEDULE OF OUTSTANDING RESOLUTIONS

Schedule of Outstanding Resolutions

587 COUNCIL DECISION:

Administrator Turnbull
Administrator Boyd

RESOLVED that this report be received and noted.

FOR VOTE - Unanimous

ADMINISTRATOR'S MINUTE

[AM] Signing of Documents

Documents signed by Administrators

Administrator Boyd

28 October 2005	Chillingham and Tyalgum Community Pre-School - Deed of Agreement
9 November 2005	Acquisition of land for the purpose of relocation of sewer rising main at Goonal Place, Banora Point
15 November 2005	Certificate of Title request - Lease of Air Space - Condong Sugar Mill
16 November 2005	Release or Extinguishment of Restriction on the use of land DP 1030322

Administrator Payne

1 December 2005	Licence Agreement over Crown Reserve 91717 for Agistment Purposes - Limpinwood
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588 COUNCIL DECISION:

Administrator Turnbull
Administrator Boyd

RESOLVED that the information be received and noted.

FOR VOTE - Unanimous

RECOMMENDATIONS OF THE OPERATIONS COMMITTEE

Recommendations of the Operations Committee Meeting held 14 December 2005 for Council Adoption

COUNCIL DECISION:

Administrator Turnbull

Administrator Boyd

RESOLVED that Council adopts the recommendations of the Operations Committee Meeting held on 14 December 2005 as follows:

1[GC] Tweed Community Kenya Mentoring Program - Stage 3

RECOMMENDED that Council:-

1. *Notes the contents of this report.*
 2. *Forwards the report to the International Riverfoundation for its information.*
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2[GC] Draft Disposal of Assets and Lands Policy

RECOMMENDED that:

1. *The Draft Disposal of Assets Policy; and*
2. *Draft Disposal of Land Policy be adopted:*

1.1 DISPOSAL OF ASSETS

Objectives

The objectives of Tweed Shire Council's Disposal of Assets Policy is as follows: -

- *To clearly define a framework, responsibilities and guidelines for Council Officers to manage the disposal of assets and scrap materials.*

This Policy does not apply to Disposal of Land as there is a separate Disposal of Land Policy.

Sourcing Of Council Policy

The Disposal of Assets Policy is: -

Listed on the Council's Intranet and Internet under Policies.

Legal Requirements

The disposal of goods and services by Council is not prescribed in the Local Government Act other than:

Section 55 of the Local Government Act 1993

This section of the Act does not apply in respect to :-

- *a contract for the sale of goods by Council at public auction.*

Disposal of Plant, Equipment and Goods

The General Manager has the delegation to authorise the sale of items of plant, equipment and goods.

Internal controls for goods with a value over and under \$1,000 have been developed to manage disposal of assets which includes scrap materials. Value over \$1,000

Council will dispose of plant, equipment and goods with an apparent value of \$1,000 or more by auction or by invitation of tenders or quotations with the Unit Director or Manager recommending the most appropriate method of disposal. The General Manager must authorise the sale of the item of plant, equipment or goods.

In determining the most appropriate method of disposal, the Unit Director or Manager must evaluate the best value for money return on the item being disposed. The Officer will take into consideration the costs that Council will incur if the item was being disposed of separately, in comparison to bottom line of change-over price of the replacement item being purchased.

The Council Officer responsible for disposing of the item of plant, equipment or goods must advise the Finance Section – Assets of the item being disposed to enable the Asset Register to be managed effectively and efficiently.

Value under \$1,000

The method of disposal of plant, equipment and goods with an apparent value of under \$1,000 shall be at the discretion of the Unit Director or Manager.

Council Officers are to ensure that they determine the most appropriate method of disposing of these assets, managing potential risks of corruption and that the process is documented.

Low Value Assets and Scrap Materials

Definition

Consumable materials – sand, gravel, chemicals, paint, turf, hardware items, pavers;

Off-cut materials – pipe, cables, timber, plumbing fittings;

Recyclable metals- scrap metals, steel posts, brass, street signs; Office Furniture;

Technology – IT equipment, mobile phones, cameras, calculators, computers, printers

Council has identified low value assets and scrap materials as potential targets for misappropriation of its assets. Council Officers will monitor the disposition of low value assets and scrap materials to ensure that no inappropriate activities are being conducted by employees.

Disposal of Assets Administration

This policy has identified who is responsible for managing the processes for disposing of the assets.

Council actively encourages employees to come forward when they suspect corrupt conduct or waste of its resources.

Employees are to return from the work site with goods and materials resources that have been purchased and not used on the project. These items must be placed in the relevant compound or left on vehicles to be used on the next project.

Where Council has established storage facilities for scrap materials, employees are to ensure that surplus goods and materials are placed in the storage facilities upon return to the depot and not left for potential misuse.

DISPOSAL OF LAND

Objectives:

The objectives of Tweed Shire Council's Disposal of Land Policy is as follows:-

- *To clearly define a framework, responsibilities and procedures for Council Officers to manage the disposal of land.*

Sourcing of the Council Policy

The Disposal of Land Policy is listed on the Council's Intranet and Internet.

Legal Requirements

The disposal of land by Council is not prescribed in the Local Government Act other than:

Section 55 of the Local Government Act 1993

This section of the Act does not apply in respect to :-

- *a contract for the sale of land; and*

Council will dispose of land or property in accordance with its Policy - Council Land - Sale.

Council will dispose of all land owned in fee simple under the Real Property Act, 1900 or the Roads Act, 1993 in accordance with this Policy.

Real Property Act 1900

1. Council owned land held in fee simple under the Real Property Act, 1900 shall be disposed of in the following ways:

- (a) by public auction, or*
- (b) by public tender,*

except in special circumstances as resolved by Council.

1.1 Council shall call for expressions of interest to conduct the auction from auctioneers who have an office established within the Tweed Local Government area. The expressions of interest must be received by Council within fourteen (14) days from the calling. The auctioneer is to be appointed in a manner to be determined by Council.

1.2 Should the process by public auction or public tender not result in a sale, then the land will be listed with at least two (2) local real estate agents.

Council shall call for expressions of interest from real estate agents who have an office established within the Tweed Local Government area. The expressions of interest must be received by Council within fourteen (14) days from the calling. The real estate agents are to be appointed in a manner to be determined by Council

1.3 For the purpose of fixing a price or reserve, Council is to obtain a valuation of the property being disposed of from a registered valuer operating within the Tweed Local Government area.

1.4 Prior to the resolving to dispose of any Council owned land under the Real Property Act, 1900 Council will advertise its intentions to dispose of the land in a local newspaper and seek written submissions on the proposal to be made within a period of twenty (21) days from the date of the advertisement.

Any submissions received in response to the advertising shall be considered in a report to Council prior to any decision to proceed with disposal of the land.

1.5 Where land is to be sold in special circumstances as resolved by Council and before a Contract for the Sale of Land is entered into, the prospective Purchaser may be required to demonstrate to Council that any development proposed for the land is suitable for the site and adheres to the requirements of the current zoning and/or necessary rezoning applications will be pursued by the Purchaser at the Purchaser's expense.

Roads Act 1993 - Disposal

2. Council owned land held in fee simple under the Roads Act, 1993 includes all roads within the Tweed Local Government area excepting Crown Public Roads and freeways.

The disposal of land under the Roads Act, 1993 will proceed under the provisions of Divisions 1, 2 and 3 of Part 4 of the Roads Act, 1993.

- 2.1 Disposal of land under the Roads Act, 1993 will not require the proposal to be advertised as required for land held under the Real Property Act, 1900.

Disposal of Council owned land under the Roads Act 1993 requires a resolution of Council

3[GC] Tweed Heads Southern Boat Harbour Slipway Refurbishment Project

RECOMMENDED that due to the significant ongoing economic importance of the Tweed Heads Southern Boat Harbour Slipway Refurbishment Project, Council confirms its commitment of a total financial contribution of forty thousand dollars (\$40,000), towards the project.

4[GC] Code of Meeting Practice

RECOMMENDED that the Code of Meeting Practice - How Often Does Council Meet - and any other associated sections be amended to cater for the following meeting arrangements:

1. Format

Meetings will be held every 3 weeks commencing Tuesday, 7 February 2006:

4:15pm	Reserves Trust
4:30pm	Planning Committee (includes Planning Access), followed by Operations Committee (includes Operations Access), followed by:
5.00pm	Community Access followed by Council Meeting

2. *Proposed Dates (note meetings now proposed to be held on Tuesday)*

*7 February 2006
28 February 2006
21 March 2006
11 April 2006
2 May 2006
23 May 2006
13 June 2006
4 July 2006
25 July 2006
15 August 2006
5 September 2006
26 September 2006
17 October 2006
7 November 2006 (No Meeting)
28 November 2006
19 December 2006*

5[GC] Code of Conduct Amendments

RECOMMENDED that the following amendments (in italics) to the Code of Conduct be approved:

1. *Section 6.6 - Conflict of Interest*

Where necessary, you must disclose an interest promptly, fully and in writing on the Disclosure of Interest Form. If a disclosure is made at a council or committee meeting, both the disclosure and nature of an interest must be recorded in the minutes.

2. *Section 8.9 - Meetings with Developers and Consultants*

All Council Officials must record details of all meetings relating to development applications or sale of Council Property, which take place with Developers and Consultants on the appropriate form (file note). The record will include information on any meetings with persons who may want to develop or have other matters that should be reported to Council.

The appropriate form must be registered in Council's Corporate Records Management system within five (5) days of the meeting.

3. *No review of Section 6.15 be made until January 2008.*

6[GC] Monthly Investment Report for Period Ending 30 November 2005

RECOMMENDED that this report be received and noted.

7[EO] Kallaroo Bund - Mooball / Crabbes Creek Drainage Union

RECOMMENDED that Council Officers write to Byron Shire Council advising them that:-

1. *Their obligations under the 1996 Deed of Agreement relating to the Kallaroo Circuit Bund must be met.*
 2. *The cost of damages to Tweed Shire landowners caused by the bund restricting floodwaters are substantial and are compounded by Byron Shire Council's failure to implement the agreement.*
 3. *Within sixty (60) days of receiving this advice, Tweed Shire Council requires a written timetable of actions by Byron Shire Council leading to full implementation of the agreement by 30 June 2006.*
 4. *If Byron Shire Council fails to comply with 3 above or fails to meet the timetable then Tweed Shire Council will initiate legal action.*
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8[EO] Draft Generic Plan of Management - All Sporting Fields in Council's Ownership or Management

RECOMMENDED that pursuant to the provisions of Section 36 of the Local Government Act 1993:-

1. *The generic Draft Plan of Management covering all Council owned and managed sporting fields be placed on exhibition for 28 days allowing a submission period of 42 days.*
 2. *During the exhibition and submission period, a public meeting is to be held in respect of the Draft Plan of Management.*
-

9[EO] Casuarina Sportsfields

RECOMMENDED that Council votes expenditure of \$164,500 from Contribution Plan No. 19 to the construction of an amenities block at the northern sportsfields at Casuarina.

10 [EO] Park Naming 'Hec Beswick Park'

RECOMMENDED that Council names the park located on Winders Place, Banora Point being Lot 117 DP 874201 'Hec Beswick Park' and erects appropriate signage.

11 [EO] Car Parking - Piggabeen Sports Complex

RECOMMENDED that Council votes expenditure of \$100,000 from Contribution Plan No. 5 to the construction of a car park within the Piggabeen Sports Complex.

12 [EO] Implementation of the Tweed Heads Masterplan - Jack Evans Boatharbour

RECOMMENDED that Council confirms its support for the proposed actions to implement the Tweed Heads Masterplan (Jack Evans Boatharbour) including the preparation of a Memorandum of Understanding on terms to be negotiated.

13 [EO] Regional Sports and Recreation Facility Plan

RECOMMENDED that Council places the Draft Regional Sports and Recreation Facilities Plan on public exhibition for an eight (8) week period.

14 [EO] Naming of Public Road, Hideaway Lane, Murwillumbah

RECOMMENDED that:-

1. Council adopts the name of "Hideaway Lane", being the road reserve coming off the intersection of Kyogle Road and Riverview Street, Murwillumbah; and
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2. *The naming of the public road be gazetted under the provisions of the Roads (General) Regulation, 1994 and the Roads Act, 1993.*
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15 [EO] Local Government Excellence in the Environment Awards

RECOMMENDED that this report be received and noted.

16 [EC] Request for "In Kind" Support/Waive Fee

RECOMMENDED that Council:-

1. *Approves the use of the South Sea Islander Room by the United Hospital Auxiliary for their meetings during 2006 and the Tweed Heads Auditorium for the Annual meeting at no charge.*
 2. *Not approve free use of the Tweed Heads Auditorium for the annual fete of the United Hospital Auxiliary, with the normal charge of \$174.00 being reimbursed under Council's Donations Policy, following payment.*
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17 [EC] Northern Rivers Catchment Management Authority: Coastal Floodplain and Acid Sulfate Soil Management Project (Part A – Tweed Floodplain)

RECOMMENDED that:-

1. *The contract of \$40,000 to extend the works of Project No 22 - Coastal Floodplain and Acid Sulfate Soil Management Project (Part A Tweed Floodplain) be accepted by Tweed Shire Council and managed by the Floodplain Project Officer.*
 2. *Council votes the funds.*
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18 [EC] Moving to the Tweed: Migration Heritage, People and Demographic Change, Stage 1

RECOMMENDED that Council accepts the grant offer of \$5,000 from The Migration Centre and considers matching funding as part of Council's budget allocation for the Museum for the 2006/2007 budget period.

19 [EC] Tweed Surf Life Saving Strategy 2020

RECOMMENDED that Council conducts a workshop with Administrators and relevant staff to review the Tweed Surf Life Saving Strategy.

20 [EC] Kingscliff Amenities Hall Restoration

RECOMMENDED that this report be received and noted.

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

21 [SUB-PTW] Minutes of the Public Transport Working Group Committee Meeting held 26 October 2005

RECOMMENDED that the:-

1. Minutes of the Public Transport Working Group Committee Meeting held 26 October 2005 be received and noted; and
2. Director's recommendations be adopted as follows:-

Item from Meeting held 30 September 2005

1. Goals Workshop

"That the organisations previously proposed to be observers at Committee meetings become full members of the Committee, subject to any Council rules relating to staff being members of advisory committees."

"That Council considers arrangements for reimbursement of costs of attending Committee meetings for members who meet CentreLink income tests for a Seniors Health Care Card. Letter to be sent to the General Manager explaining the above, that were not included in the circulated Minutes for September.:"

Item from Meeting held 30 September 2005

5. Tweed Centro Taxi Rank

"That Council enforces the regulations relating to placement of café tables on footpaths at Tweed Centro Taxi Rank."

Item from Meeting held 30 September 2005

7. Surfside

"That in view of the occurrence of an accident at Kirkwood Road West bus stop, Council proceeds with safety works there irrespective of possible future bus route changes."

22 [SUB-TRC] Minutes of the Tweed River Committee Meeting held 30 November 2005

RECOMMENDED that the:-

1. *Minutes of the Tweed River Committee Meeting held 30 November 2005 be received and noted; and*
2. *Director's recommendations be adopted as follows:-*
 1. *Tweed Vegetation Management Plan - Mark Kingston*
Vegetation Management Plan

"That Council fully considers the importance of the Vegetation Management Plan and its implementation in its budget deliberations for the 2006/2007 year and in the 7 Year Infrastructure Plan."

8. Barneys Point Bridge

Tweed River Committee

"That Council requests the Roads & Traffic Authority to install screens on those sections of the Barneys Point Bridge that pass over navigation channels to prevent articles being dropped from the bridge deck onto boats passing below."

FOR VOTE - Unanimous

RECOMMENDATIONS OF THE PLANNING COMMITTEE

Recommendations of the Planning Committee Meeting held on 30 November 2005 for Council Adoption

589 COUNCIL DECISION:

Administrator Boyd
Administrator Turnbull

RESOLVED that Council adopts the recommendations of the Planning Committee Meeting held on 30 November 2005 as follows:-

- 1 **[PD] Development Application DA05/0924 - Use of Existing Premises as a Bulk Store at Lot 21 Sec 4 DP2379, No. 56 Recreation Street, Tweed Heads**

RECOMMENDED that this item be deferred pending the provision of appropriate legal advice in relation to the zoning for this application.

- 2 **[PD] Development Application D95/0148.01 for an Amendment to Development Consent D95/0148 for Continuation and Expansion of Existing Quarry (Quirk's) at Lot 12 DP 601427, Lot 1 DP 34555, Lot 26 DP 615931, Eviron Road, Eviron**

RECOMMENDED that this report be referred to the next meeting of Council's Local Traffic Committee to assess the speed limits posted in this locality in relation to this Section 96 Application D95/0148.01 and that Ms Sandy Ellis (Principal Duranbah Public School) be invited to attend the meeting to discuss this matter.

- 3 **[PD] S82A Review of Determination - DA05/0701 for Greyhound Kennels and Colorbond Fence at Lot 3 DP 701833, No.3808 Kyogle Road, Mount Burrell**

RECOMMENDED that: -

1. *The S82A Review of Determination for Development Application DA05/0701 for greyhound kennels and colorbond fence at Lot 3 DP 701833, No.3808 Kyogle Road, Mount Burrell be refused and the following reasons for refusal be confirmed:*

1. *The proposed development fails to satisfy the primary objective for the 1(a) Rural zone under the Tweed Local Environmental Plan 2000 in that it would not protect the rural character and amenity.*
 2. *The proposed development fails to satisfy Clause 17 of the Tweed Local Environmental Plan 2000 in that it would have a significant social impact upon the local community.*
 3. *The proposed development fails to satisfy Clause 15 of the Tweed Local Environmental Plan 2000 in that it cannot ensure there will be adequate measures to protect the environment and the community's health.*
 4. *The proposed development fails to satisfy Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979 in that it is not supported by adequate information to allow a proper assessment in relation to impact upon the rural and natural environment.*
 5. *The proposed development fails to satisfy Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979 in that it would have an unreasonable and adverse impact upon the rural environment and neighbouring properties in terms of noise emissions.*
 6. *The proposed development fails to satisfy Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979 in that the suitability of the site has not been adequately demonstrated.*
 7. *The proposed development fails to satisfy Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979 in that because the adverse impacts cannot be properly assessed, it is not in the public interest.*
 8. *The proposed development fails to satisfy Section 79C(1)(d) of the Environmental Planning and Assessment Act 1979 in that the application has attracted a number of public submissions in the negative which have raised matters which are considered to have merit.*
2. *Council's Solicitors be instructed to defend the Appeal currently before the Land & Environment Court.*

4 [PD] Tweed Heads Master Plan - Section 94

RECOMMENDED that Council:

1. *Adopts the exhibited amended Section 94 Contribution Plan No 26 – Shire Wide/Regional Open Space.*
 2. *Adopts the exhibited Section 94 Contribution Plan No 27 – Tweed Heads Master Plan – Streetscaping and Local Open Space.*
 3. *Gives public notice in the Tweed Link of its decision in accordance with the Environmental Planning and Assessment Regulations 2000, specifying that the Section 94 Contribution Plans come into effect on the date of the notice.*
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5 [PD] New Arrangements for Development Control Plans

RECOMMENDED that Council: -

1. *Endorses the exhibition of draft Tweed Shire Development Control Plan comprising a compendium of all current Development Control Plans for 28 days in accordance with Clause 18 of the Environmental Planning and Assessment Regulation 2000.*
 2. *Delegates to the Manager of Strategic Planning to prepare the details of this amalgamated Development Control Plan.*
 3. *Incorporates into the single Development Control Plan any amendments to source Development Control Plans that have been approved by Council.*
-

FOR VOTE - Unanimous

Recommendations of the Planning Committee Meeting held on 14 December 2005 for Council Adoption

590 COUNCIL DECISION:

**Administrator Boyd
Administrator Turnbull**

RESOLVED that Council adopts the recommendations of the Planning Committee Meeting item held on 14 December 2005 as follows:-

- 1 [PD] Section 96 Applications D88/0057.02, D87/0618.01 & 1615.01 for Amendments to Development Consents D88/0057, D87/0618 & 1615 which all Granted Approval for Part of the Cabarita Gardens Lakes Resort Motel at Lot 9 DP 238880, Tamarind Avenue, Bogangar**

RECOMMENDED that:-

- A. *The application for the relocation of the pool, pool gazebo, and aviary and the larger roof lobby area is not approved.*
- B. *Section 96 Applications D88/0057.02, D87/0618.01 & 1615.01 for Amendments to Development Consents D88/0057, D87/0618 & 1615 which all granted approval for part of the Cabarita Gardens Lakes Resort Motel at Lot 9 DP 238880, Tamarind Avenue, Bogangar be approved subject to the following additional conditions of consent being added to each consent (NB Condition No. 3 (as detailed below) replaces condition No. 3 in D87/618 and replaces condition No. 2 in D88/0057) -*

GENERAL

1. *The development shall be completed in accordance with the following amended plans (excluding relocation of pool, pool gazebo, and aviary and the larger roof lobby area):*
- *Plan Nos DA/01 Revision B prepared by LVO Architecture and dated 30 September 2005;*
 - *Plan Nos DA/02 Revision A prepared by LVO Architecture and dated 19 August 2005;*
 - *Plan Nos DA/03 Revision A prepared by LVO Architecture and dated 19 August 2005;*
 - *Plan Nos DA/04 Revision A prepared by LVO Architecture and dated 19 August 2005;*
 - *Plan Nos DA/05 Revision A prepared by LVO Architecture and dated 19 August 2005;*
 - *Plan Nos DA/06 Revision B prepared by LVO Architecture and dated 30 September 2005;*
 - *Plan Nos DA/07 Revision B prepared by LVO Architecture and dated 30 September 2005;*

- *Plan Nos DA/08 Revision B prepared by LVO Architecture and dated 30 September 2005;*
- *Plan Nos DA/09 Revision B prepared by LVO Architecture and dated 30 September 2005;*
- *Plan Nos DA/10 Revision B prepared by LVO Architecture and dated 30 September 2005;*

except where varied by the conditions of this consent.

[GEN0005]

2. *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.*

[GEN0045]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

3. *The developer shall provide 53 parking spaces including parking for the disabled in accordance with DCP2, AS 2890 and Austroads Part 11.*

Full design detail of the proposed parking and manoeuvring areas including integrated landscaping shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0065]

4. *Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Principal Certifying Authority PRIOR to the issue of a construction certificate.*

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

[PCC1065]

5. *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.

[PCC1145]

6. *Erosion and Sediment Control shall be provided in accordance with the following:*

(a) *The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of Development Design Specification D7 - Stormwater Quality.*

(b) *Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with Tweed Shire Council Development Design Specification D7 - Stormwater Quality and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".*

[PCC1155]

7. *The proposed new entry canopy adjacent to the existing Porte Cochere shall be designed so as not to impact on the proposed access ramp to Unit Block 1 identified in Development Consent 87/0874.03*

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

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

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

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

[PCW0985]

9. *Prior to commencement of work all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the General Manager or his delegate. Erosion and sedimentation control devices shall be installed in accordance with the publication, "Managing Urban Stormwater - Soil and Construction", prepared by the NSW Department of Housing. All erosion and sedimentation controls shall be maintained throughout the period of construction.*

[PCWNS01]

DURING CONSTRUCTION

10. *Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -*

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

11. *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.

[DUR0215]

12. *All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).*

[DUR0375]

13. *Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.*

[DUR0395]

14. *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 in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.

Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.

Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate/subdivision certificate.

Application shall be made to Tweed Shire Council including associated fees for approval prior to any structure being erected within Councils road reserve.

[DUR0435]

15. *All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.*

[DUR0645]

16. *All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos.*

[DUR0655]

17. *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.*

[DUR1025]

18. *An automatic fire detection and alarm system, designed to ensure the occupants are given adequate warning so they can evacuate the building in an emergency, must be installed in Class 2 and 3 buildings and Class 4 part of a building in accordance with the provisions of Specification E2.2a of the Building Code of Australia. Smoke alarms must be installed:*

(a) *within each sole occupancy unit, located on or near the ceiling in any storey -*

(i) *containing bedrooms -*

* *between each part of the sole occupancy unit containing bedrooms and the remainder of the sole occupancy unit; and*

* *where bedrooms are served by a hallway, in that hallway; and*

(ii) *not containing any bedrooms, in egress paths; and*

- (b) *in a building not protected with a sprinkler system, in public corridors and other internal public spaces, located in accordance with the requirements for smoke detectors in AS 1670 and connected to activate a building occupant warning system in accordance with Specification 2.2a(6) of the Building Code of Australia which states:*

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

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

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

[DUR1245]

19. *All materials used in the building must comply with the smoke developed and spread of flame indices specified in Specification C1.10 of the Building Code of Australia.*

Note: Many materials including some timbers such as western red cedar do not comply and it is the applicants responsibility to ensure that all materials to be used are within the criteria specified.

[DUR1275]

20. *Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary.*

[DUR2205]

21. *Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event.*

[DUR2405]

22. *Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads.*

[DUR2415]

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

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

[DUR2485]

24. *Plumbing*

- (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.*

[DUR2495]

25. *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:-*

- * *45⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and*
- * *50⁰C in all other classes of buildings.*

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

[DUR2555]

26. *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.*

[DURNS01]

27. *All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.*

[DURNS02]

28. *If dewatering is required the applicant is to obtain all the necessary permits from the Department of Natural Resources.*

[DURNS03]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

29. *A person must not commence occupation or use of the whole or any part of a new building or structure (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).*

[POC0205]

30. *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.*

[POC0225]

31. *All existing essential fire safety measures are to be certified by a qualified person to the effect that each of the fire safety measures has been assessed and were found to be performing to a standard not less than that to which it was originally designed.*

[POC0525]

32. *Redundant road pavement, kerb and gutter or foot paving including and existing disused vehicular laybacks/driveways or other special provisions shall be reinstated in accordance with Councils adopted Development Design and Construction Specifications.*

[POC0755]

33. *The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:*

- (a) Easements for sewer, water supply and drainage over ALL services on private property.*
- (b) Creation of a right of Carriageway over Lot 618 DP 508200 in favour of Lot 9 DP 238880.*

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

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

[POCNS01]

USE

34. *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.*

[USE0125]

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

[USE0135]

36. *The LA10 noise level emitted from any activity shall not exceed the background noise level (LA90) by more than 5dB(A) at the boundary of any affected residence.*

[USE0165]

37. *All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised, notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive noise.*

[USE0175]

38. *All external artificial lighting shall be shielded where required to the satisfaction of Councils General Manager or his delegate to ensure that the spill of light or glare from such lighting does not create a nuisance to any adjoining or neighbouring premises.*

[USE0205]

39. *All wastes shall be collected, stored and disposed to the satisfaction of the General Manager or his delegate.*

[USE0875]

40. *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.*

[USE1235]

2 [PD] S96 Application D87/0874.03 for Amendment to Development Consent D87/0874 for Erection of 6x3 Storey Holiday Resort Buildings Comprising 60x2 Bedroom Units, Sports Complex & Additional 72 Car Parking Spaces - Lot 9 DP238880 Tamarind Avenue, Bogangar

RECOMMENDED that Section 96 Application D87/0874.03 for an amendment to Development Consent D87/0874 for the erection of 6 x 3 storey holiday resort buildings comprising 60 x 2 bedroom units, sports complex and additional 72 car parking spaces at Lot 9 DP 238880, Tamarind Avenue, Bogangar be approved subject to the following new conditions (NB New Condition No. 2 replaces old No. 18; New Condition No. 6 replaces old No. 2; New Condition No. 7 replaces old No. 7; New Condition No. 16 replaces old No. 8) and New Condition No. 17 replaces old No. 14).

GENERAL

1. *The development shall be completed in accordance with the with the following amended plans:*

- *DA/00 Revision A prepared by LVO Architecture and dated 30/09/2005;*
- *DA/01 Revision A prepared by LVO Architecture and dated 30/09/2005;*
- *DA/02 Revision A prepared by LVO Architecture and dated 30/09/2005;*
- *DA/03 Revision A prepared by LVO Architecture and dated 30/09/2005;*
- *DA/04 Revision A prepared by LVO Architecture and dated 30/09/2005;*
- *DA/05 Revision A prepared by LVO Architecture and dated 30/09/2005;*
- *DA/06 Revision A prepared by LVO Architecture and dated 30/09/2005;*
- *DA/07 Revision A prepared by LVO Architecture and dated 30/09/2005;*
- *DA/08 Revision A prepared by LVO Architecture and dated 30/09/2005;*
- *DA/09 Revision A prepared by LVO Architecture and dated 30/09/2005;*

except where varied by the conditions of this consent.

[GEN0005]

2. *The development shall be completed in accordance with the following stage plan:*

- *Stage 1 construct Block 6;*
- *Stage 2 construct Block 5;*
- *Stage 3 construct Block 4,*
- *Stage 4 construct Block 3;*
- *Stage 5 construct Block 2;*
- *Stage 6 construct Block 1;*
- *Stage 7 construct recreation area*

[GEN0005]

3. *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.*

[GEN0045]

4. *Advertising structures/signs to be the subject of a separate development application, where statutorily required.*

[GEN0065]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. *Any car parking floodlighting shall not spill beyond the boundaries of the site. Lighting shall comply with AS 4282 and other relevant Australian Standards. A plan of the lighting shall be approved by the Principal Certifying Authority PRIOR to the issue of a Construction Certificate.*

[PCC0055]

6. *The developer shall provide 62 parking spaces including parking for the disabled in accordance with DCP2, AS 2890 and Austroads Part 11.*

This will necessitate a total of 115 onsite parking spaces including that required for the existing Cabarita Gardens Lakes Motel.

Full design detail of the proposed parking and manoeuvring areas including integrated landscaping shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0065]

7. *A detailed plan of landscaping is to be submitted and approved by Council prior to the issue of a Construction Certificate.*

[PCC0585]

8. *The basement car parking is to be protected against the inflow of water to a level of 500mm above the design flood level of RL 3.4m AHD in accordance with DCP5 - Development of Flood Liable Land. A detailed design of the basement stormwater pump out system is to be provided designed for a storm event with a 10 year average return interval (ARI 10) and the consequences of pump failure and the 100 year ARI storm event must be addressed and included with the above details prior to the issue of a Construction Certificate.*

[PCC0685]

9. *Permanent stormwater quality treatment shall be provided in accordance with the following:*

(a) *The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils Development Design Specification D7 - Stormwater Quality.*

(b) *Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.*

- (c) *The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.*
- (d) *Specific Requirements to be detailed within the Construction certificate application include:*
- (i) *Shake down area along the haul route immediately before the intersection with the road reserve.*
- (ii) *All runoff from basement areas and exposed basement driveways must be treated to remove oil and sediment contaminants prior to discharge to an approved drainage system. Permanent quality control devices shall be sized in accordance with Section D7.12 of Development Design Specification D7 - Stormwater Quality. Engineering details of treatment devices, including maintenance schedules, must be submitted with a s68 Stormwater Application for Council approval.*
- (iii) *Basement car wash bays must be bunded to prevent contamination of basement stormwater. All captured car wash runoff shall be treated to remove oil and sediment contaminants prior to discharge to sewer as trade waste, requiring a Tweed Shire Council Trade Waste Application.*
10. *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.*

[PCC1105]

11. *Erosion and Sediment Control shall be provided in accordance with the following:*

- (a) *The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of Development Design Specification D7 - Stormwater Quality.*
- (b) *Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with Tweed Shire Council Development Design Specification D7 - Stormwater Quality and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".*
- [PCC1155]*
12. *A construction management plan shall be submitted for the approval of the Director Environment & Community Services prior to issue of a Construction Certificate. All works shall comply with the approved plan.*
- [PCCNS01]*
13. *An updated acid sulphate soils management plan shall be submitted for the approval of the Director Environment & Community Services prior to issue of a Construction Certificate. All works shall comply with the approved plan.*
- [PCCNS01]*
14. *A dewatering management plan and water quality management plan shall be submitted for the approval of the Director Environment & Community Services prior to issue of a Construction Certificate. All works shall comply with the approved plan.*
- [PCCNS01]*
15. *Prior to issue of a Construction Certificate details of a car wash facility shall be submitted for the approval of the Director Environment & Community Services.*
- [PCCNS01]*
16. *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:

Stage 1

<i>Water DSP6:</i>	<i>10 ET @ \$4230</i>	<i>\$42,300</i>
<i>Sewer Hastings Point:</i>	<i>10 ET @ \$2634</i>	<i>\$26,340</i>

Stage 2

<i>Water DSP6:</i>	<i>10 ET @ \$4230</i>	<i>\$42,300</i>
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<i>Sewer Hastings Point: 10 ET @ \$2634</i>	<i>\$26,340</i>
<i>Stage 3</i>	
<i>Water DSP6: 10 ET @ \$4230</i>	<i>\$42,300</i>
<i>Sewer Hastings Point: 10 ET @ \$2634</i>	<i>\$26,340</i>
<i>Stage 4</i>	
<i>Water DSP6: 10 ET @ \$4230</i>	<i>\$42,300</i>
<i>Sewer Hastings Point: 10 ET @ \$2634</i>	<i>\$26,340</i>
<i>Stage 5</i>	
<i>Water DSP6: 10 ET @ \$4230</i>	<i>\$42,300</i>
<i>Sewer Hastings Point: 10 ET @ \$2634</i>	<i>\$26,340</i>
<i>Stage 6</i>	
<i>Water DSP6: 10 ET @ \$4230</i>	<i>\$42,300</i>
<i>Sewer Hastings Point: 10 ET @ \$2634</i>	<i>\$26,340</i>

These charges are valid for the date of the consent only and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

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

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

[PCC0265/PSC0165]

PRIOR TO COMMENCEMENT OF WORK

17. *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 council and*
- (b) the person having the benefit of the development consent has:
 - (i) appointed Council as the principal certifying authority for the building work.**

[PCW0215]

18. *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.* [PCW0225]
19. *A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-*
- (a) a standard flushing toilet connected to a public sewer, or*
 - (b) if that is not practicable, an accredited sewage management facility approved by the council*
- [PCW0245]
20. *An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.* [PCW1065]
21. *Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining premises shall be notified accordingly prior to commencement of such operations.* [PCW0125]
22. *Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.*

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

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

- [PCW0985]
23. *Prior to commencement of work all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the General Manager or his delegate. Erosion and sedimentation control devices shall be installed in accordance with the publication, "Managing Urban Stormwater - Soil and Construction", prepared by the NSW Department of Housing. All erosion and sedimentation controls shall be maintained throughout the period of construction.*

[PCWNS01]

DURING CONSTRUCTION

24. *Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -*

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

25. *All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).*

[DUR0375]

26. *Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.*

[DUR0395]

27. *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 in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.

Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.

Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate/subdivision certificate.

Application shall be made to Tweed Shire Council including associated fees for approval prior to any structure being erected within Council's road reserve.

[DUR0435]

28. *All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.*

[DUR0645]

29. *All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos.*

[DUR0655]

30. *An automatic fire detection and alarm system, designed to ensure the occupants are given adequate warning so they can evacuate the building in an emergency, must be installed in Class 2 and 3 buildings and Class 4 part of a building in accordance with the provisions of Specification E2.2a of the Building Code of Australia. Smoke alarms must be installed:*
- (a) *within each sole occupancy unit, located on or near the ceiling in any storey -*
 - (i) *containing bedrooms -*
 - * *between each part of the sole occupancy unit containing bedrooms and the remainder of the sole occupancy unit; and*
 - * *where bedrooms are served by a hallway, in that hallway; and*
 - (ii) *not containing any bedrooms, in egress paths; and*
 - (b) *in a building not protected with a sprinkler system, in public corridors and other internal public spaces, located in accordance with the requirements for smoke detectors in AS 1670 and connected to activate a building occupant warning system in accordance with Specification 2.2a(6) of the Building Code of Australia which states:
A building occupant warning system must comply with Clause 8.7 of AS 1670 to sound through all occupied areas except-*
 - (c) *in a Class 2 and 3 building or Class 4 part provided with a smoke alarm system:*
 - (i) *the sound pressure level need not be measured within a sole occupancy unit if a level of not less than 85dB(A) is provided at the door providing access to the sole occupancy unit; and*
 - (ii) *the inbuilt sounders of the smoke alarms may be used to wholly or partially meet the requirements.*

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

[DUR1245]

31. *All materials used in the building must comply with the smoke developed and spread of flame indices specified in Specification C1.10 of the Building Code of Australia.*

Note: Many materials including some timbers such as western red cedar do not comply and it is the applicants responsibility to ensure that all materials to be used are within the criteria specified.

[DUR1275]

32. *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.*

[DUR2075]

33. *Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.*

[DUR2085]

34. *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.*

[DUR2485]

35. *Plumbing*
- (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.*

[DUR2495]

36. *Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.*

[DUR2535]

37. *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:-*

- * *45⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and*
- * *50⁰C in all other classes of buildings.*

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

[DUR2555]

38. *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.

[DUR0215]

39. *All pumps used for any onsite dewatering operations shall be acoustically shielded to the satisfaction of the General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation.*

[DUR0235]

40. *Pumps used for dewatering operations are to be electrically operated. Diesel pumps are not to be used unless otherwise approved by Tweed Shire Council.*

[DUR0255]

41. *Practical measures to the satisfaction of the General Manager or his delegate are to be taken to acoustically shield all pumps used for dewatering operations to minimise any noise disturbance to neighbouring or adjacent premises.*

[DUR0265]

42. *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.*

[DUR1025]

43. *Landscaping of the site shall be carried out in accordance with the submitted/approved landscaping plans.*

[DUR1045]

44. *All walls in the food preparation and food storage areas shall be of solid construction, easily washable, lightly coloured and tiled to a height of at least 2 metres above floor level, or where not tiled, cement rendered to provide a smooth even finish to ceiling. Note: Stud framed walls will not be acceptable. Intersections of all floors with walls shall be covered to a radius of not less than 25 millimetres.*
[DUR1495]
45. *All flooring materials in the food preparation and storage areas are to be impervious, non slip, non abrasive and capable of withstanding heavy duty operation. Where tiling is to be used epoxy grout finished flush with the floor surface is to be used in joints or alternatively all tiles are to be butt joined and free of cracks or crevices.*
[DUR1505]
46. *All internal fitout is to comply with Australian Standard AS4674 - Design, Construction and Fitout of Food Premises.*
[DUR1535]
47. *Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of the General Manager or his delegate.*
[DUR1545]
48. *A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".*
[DUR2195]
49. *Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary.*
[DUR2205]
50. *Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event.*
[DUR2405]
51. *Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads.*
[DUR2415]
52. *All waters that are to be discharged from the site shall a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/kg. The contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request.*
[DUR2435]
53. *During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.*
[DUR2445]

54. *A grease arrestor shall be provided to the recreation centre kitchenette where deemed applicable by Council's trade waste officer. The arrestor shall comply with any requirements of the trade waste officer.* [DURNS01]
55. *All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.* [DURNS02]
56. *All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.* [DURNS03]
57. *If dewatering is required the applicant is to obtain all the necessary permits from the Department of Natural Resources.* [DURNS04]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

58. *A person must not commence occupation or use of the whole or any part of a new building or structure (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).* [POC0205]
59. *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.* [POC0225]
60. *All existing essential fire safety measures are to be certified by a qualified person to the effect that each of the fire safety measures has been assessed and were found to be performing to a standard not less than that to which it was originally designed.* [POC0525]
61. *All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.* [POC0475]
62. *Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.* [POC0985]
63. *The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:*
- (a) *Easements for sewer, water supply and drainage over ALL services on private property.*
 - (b) *Creation of a right of Carriageway over Lot 618 DP 508200 in favour of Lot 9 DP 238880.*

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

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

[POCNS01]

USE

64. Swimming Pools (Building)

- (a) *It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).*
- (b) *The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).*

[USE1295]

- 65.** *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.*

[USE0125]

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

[USE0135]

- 67.** *The LA10 noise level emitted from the premises shall not exceed the background noise level (LA90) by more than 5dB(A) at the boundary of any affected residence.*

[USE0165]

- 68.** *All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised, notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive noise.*

[USE0175]

69. All external artificial lighting shall be shielded where required to the satisfaction of Councils General Manager or his delegate to ensure that the spill of light or glare from such lighting does not create a nuisance to any adjoining or neighbouring premises.

[USE0205]

70. All wastes shall be collected, stored and disposed to the satisfaction of the General Manager or his delegate.

[USE0875]

71. 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.

[USE1235]

72. All chemicals and fuels shall be stored in a flood free location and not permitted to flow or percolate to any watercourse.

[USENS01]

3 [PD] Section 96 Application DA03/1855.08 for an Amendment to Development Consent DA03/1855 for Twenty-Three (23) Factory/Industrial Units at Lot 130 DP 817783, Traders Way, Tweed Heads South

RECOMMENDED that Section 96 Application DA03/1855.08 for an amendment to Condition No 6 of Development Consent DA03/1855 for twenty-three (23) factory/industrial units at Lot 130 DP 817783 Traders Way, Tweed Heads South be refused.

4 [PD] Section 96 Application DA02/1983.07 for an Amendment to Development Consent DA02/1983 for the Use of Property for Filming and Producing a Television Program at Part Lot 74 DP755715, Lot 77 DP755715, Lot 93 DP755715, No. 366 Dungay Creek Road, Dungay

RECOMMENDED that Section 96 Application DA02/1983.07 for an amendment to Development Consent DA02/1983 for the use of property for filming and producing a television program at part Lot 74 DP 755715, Lot 77 DP 755715, Lot 93 DP 755715, No. 366 Dungay Creek Road, Dungay be approved subject to the following amendments: -

1. Add after condition 34 the following: -

34A. Prior to the commencement of any productions after 31 December 2005, a Site Management Plan is to be prepared by the applicant and approved by the Director, Planning and Development that addresses, but not limited to the following: -

- (i) *Traffic to and from the site as well as within the site*
- (ii) *Noise associated with the production*
- (iii) *Night time lighting*
- (iv) *Hours of use of the site*
- (v) *Use of helicopters*
- (vi) *Removal of solid waste from the site*
- (vii) *The extent of notification of the event to affected residents as required by condition 34C*

34B. *Prior to the commencement of any productions after 31 December 2005, a Community Liaison Committee is to be established by Council that consists of a representative of the local community, a representative of Granada Productions Pty Ltd, representatives from Council's Planning and Development Division, Environment and Community Services Division and Engineering and Operations Division. This Committee shall monitor the performance of the Management Plan referred to in Condition 34A.*

34C. *A community liaison officer and community contact phone number shall be available on a 24 hour basis on the days of the production (including 24 hours pre and post the commencement of the production). Details of the name of the contact person and the contact telephone number must be provided to Council, locally advertised a minimum of fourteen (14) days prior to the commencement of production and affected residents notified of these details by means of an individual letter drop to each household.*

2. Amend the consent to state at the end:

The consent to lapse on 1 June 2008 unless commenced prior to that date.

The consent to expire on 1 June 2008

5 [PD] Development Application DA04/1024 for Multi Dwelling Housing Comprising of Six Dwellings at Lot 1 DP 1058988, No. 70 Adelaide Street, Tweed Heads

RECOMMENDED *that this item be deferred until a suitable site inspection can be organised and that Mr Ian Manwaring and the applicant be advised of the site inspection arrangements.*

6 [PD] Review of Tweed Local Environmental Plan 2000

RECOMMENDED that:

1. Council informs the Director-General of the Department of Planning that, pursuant to Section 54 of the Environmental Planning & Assessment Act, it intends to prepare a draft Local Environmental Plan to review Tweed Local Environmental Plan 2000. To accompany the draft Local Environmental Plan Council intends to prepare an Integrated Land Use Strategy.
2. Council seeks funding of \$200,000 from the Department of Planning for the Local Environmental Plan Review process.
3. The estimated cost of completing the Local Environmental Plan Review be considered in the 2006/07 Budget and the 7 Year Infrastructure Plan.
4. Council notes that the anticipated programme for the completion of the review of the Tweed Local Environmental Plan is 2 years.

7 [PD] Tweed Local Environmental Plan 2000, Amendment No 70 (Exempt and Complying Development) and Accompanying Amendment No 4 to Development Control Plan No 40

RECOMMENDED that:-

1. Tweed Local Environmental Plan No. 70 (Exempt and Complying Development) and accompanying Amendment No 4 to Development Control Plan No 40 be exhibited in accordance with statutory requirements.
2. The following additional amendments be made to DCP 40 Amendment No 4:
 - Delete the following words from the Requirement for Business identification signs in Zone 4(a): "If over a public road, signs erected at a height not less than 2.6 metres above ground level".
 - Delete the following words from the Requirement for Business identification signs in Zone 4(a): "Signs not exceeding 10m² in area" and replace with the words: "Signs not exceeding 5m² in area".
 - Insert the following words in the Requirements for Business identification signs in Zone 3(a), 3(b), 3(c), 3(d) and 3(e):
 - "No more than two signs from any of the following categories".
 - Insert in Schedule 2 Complying Development Requirements wherever there is a reference to a minimum amount of a site which

must be soft landscaped the following words: "half of which must be for deep soil planting".

- *In Schedule 2 Complying Development Requirements, in respect of temporary buildings, replace the words: "is to be used for a maximum of 5 years" with the words: "is to be used for a maximum of 12 months".*

3. *Council delegates to the Chair of the Planning Committee and the Director of Planning & Development amendments to Complying Development Requirements in respect of External Additions to Multi-Dwelling Housing. The intent of this amendment is:*

- *To require the body corporate to ensure consistent colours, styles and treatments;*
- *To require that any additions do not materially affect the overall design of the building.*

8[PD] Kingscliff Locality Plan - Community Values

RECOMMENDED that the Director Planning and Development reports to the 7 February 2006 Meeting of the Planning Committee on the preferred process and workplan for locality planning in the Kingscliff area which will afford the maximum community input.

a8 [PD] S96 Application DA03/1620.07 for Amendment to Development Consent DA03/1620 for a 3 Storey Mixed Use Development Comprising Residential Units, Restaurants & Shops at Lot 29 DP979920, Lot 2 DP549719 & Lot 1 DP1005806, No. 52 Marine Parade, Kingscliff

RECOMMENDED that:-

1. *This item be deferred to the Planning Committee Meeting of 7 February 2006.*
2. *The applicant be requested to provide details of design amendments which will enable the provision of the required amount of car parking within the development.*

FOR VOTE - Unanimous

REPORTS THROUGH THE ACTING GENERAL MANAGER

Nil.

REPORTS FROM THE DIRECTOR PLANNING & DEVELOPMENT

- 1 [PD] DA05/0308 for a Staged Residential Subdivision (3 Stages) Comprising 86 Single Dwelling Lots, 12 Duplex Blocks, 1 Drainage Reserve, 1 Residue Lot & 2 Public Reserves at Lot 1 DP392245, Lot B DP368706, Lot 13 DP793985, Barnby Street, Murwillumbah

591 COUNCIL DECISION:

Administrator Turnbull
Administrator Boyd

RESOLVED that Council's Solicitors be instructed to take action to defend Appeal Number 11048 of 2005 in the Land Environment Court (DA05/0308 for a staged residential subdivision).

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR GOVERNANCE & CORPORATE SERVICES

Nil.

REPORTS FROM THE ACTING DIRECTOR ENGINEERING AND OPERATIONS

- 2 [EO] EC2005-188 East Murwillumbah and Dorothy Street Flood Levees Upgrade

592 COUNCIL DECISION:

Administrator Boyd
Administrator Turnbull

RESOLVED that:-

1. M J & S L Seery Excavations Pty Ltd be awarded the contract for the East Murwillumbah and Dorothy Street Flood Levees upgrade with a total price of \$963,155 (GST exclusive) plus variations of up to a total of \$144,473.25 (15%) that have been appropriately authorised by the Director Engineering & Operations.

2. All documentation be executed under the Common Seal of Council.

FOR VOTE - Unanimous

3 [EO] EC2005-033 Award of Contract

593 COUNCIL DECISION:

**Administrator Boyd
Administrator Turnbull**

RESOLVED that Council completes the tender acceptance with FRH Group Pty Ltd.

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

Nil.

ITEMS OF INFORMATION AND INTEREST

Nil.

ORDERS OF THE DAY

Nil.

QUESTION TIME

594 [QT] Building Entitlements

Administrator Boyd

Asked could Council staff bring forward a report on the number, size and location of those small lots which have lost building entitlements and could the staff provide an appropriate course of action which Council could consider taking to allow a residence to be constructed on these lots.

The Acting General Manager advised that staff would investigate and advise Council.

595 COUNCIL DECISION:

**Administrator Payne
Administrator Turnbull**

RESOLVED that Council resolves itself into a Confidential Committee of the Whole at 5.45pm.

FOR VOTE - Unanimous

The Acting 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:-

REPORTS THROUGH ACTING GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR PLANNING & DEVELOPMENT IN COMMITTEE

- 1 [PD] Development Application DA05/0840 for Grazing of Cattle and Associated Works at Lot 76 DP 755701, Lot 272 DP 755701, Lot 323 DP 755701, Lot 326 DP 755701, Duranbah Road, Kings Forest**

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 148 COUNCIL DECISION:

That:-

1. Council determines to defend this Appeal and seeks an adjournment at the next call over date until such time as the ecological report currently being undertaken by Council's consultants has been provided to Council.
2. In the event that instructions are urgently required in relation to the litigation, the Council delegates authority to Administrator Payne to give such instructions as are appropriate.

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR ENVIRONMENT & COMMUNITY SERVICES IN COMMITTEE

LATE ITEM

C 149 COUNCIL DECISION:

That Item 1a being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

FOR VOTE - Unanimous

1a [EC] Offer of Funding

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 150 COUNCIL DECISION:

That Council enters into a funding agreement as outlined in the body of the report and affixes the Common Seal of Council to any necessary documentation.

FOR VOTE - Unanimous

596 COUNCIL DECISION:

**Administrator Boyd
Administrator Payne**

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

FOR VOTE - Unanimous

There being no further business the Meeting terminated at 5.50pm.



Minutes of Meeting Confirmed by Council

at Meeting held

Chairman