

Mayor: Cr Warren Polglase

Councillors: P Youngblutt (Deputy Mayor)
D Holdom
B Longland
K Milne
K Skinner
J van Lieshout



Minutes Ordinary Council Meeting

Tuesday 20 October 2009

held at Murwillumbah Cultural & Civic Centre
commencing at 4.30pm

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The Meeting commenced at 4.30pm.

IN ATTENDANCE

Cr W Polglase (Mayor), Cr P Youngblutt (Deputy Mayor), Cr Dot Holdom, Cr B Longland, Cr Katie Milne, Cr Kevin Skinner, Cr Joan van Lieshout.

Also present were Mr Mike Rayner (General Manager), Mr Troy Green (Director Technology & Corporate Services), Mr Patrick Knight (Director Engineering & Operations), Mr Vince Connell (Director Planning & Regulation), Mr David Oxenham (Director Community & Natural Resources), Mr Neil Baldwin (Manager Corporate Governance/Public Officer) and Mrs Meredith Smith (Minutes Secretary).

ABORIGINAL STATEMENT

The Mayor 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 and custodians of these lands."

PRAYER

The meeting opened with a Prayer by Council's Chaplain, Pastor Andrew Brown.

"... for high official watches over high official, and higher officials are over them. Moreover the profit of the land is for all ..."

Ecclesiastes 5:8-9

Dear Lord, as this session of council meets over the business of the day, may the constraints of reality not kill the quest for true ideals, and may inevitable compromises not nullify the impulse for justice and equity. We recall today that the scale of authority reaches its top end with You, who rule with our permission or without. But we would wish that our decisions should fall in line with your agenda.

Amen.

CONFIRMATION OF MINUTES

1 Minutes of the Extraordinary Council Meeting held Tuesday 15 September 2009

294

Cr D Holdom
Cr K Skinner

RESOLVED that the Extraordinary Minutes of the Ordinary and Confidential Council Meetings held Tuesday 15 September 2009 be adopted as a true and accurate record of proceedings of that meeting.

The Motion was **Carried**

FOR VOTE - Unanimous

2 Minutes of the Ordinary and Confidential Council Meeting held Tuesday 15 September 2009

295

Cr D Holdom
Cr K Skinner

RESOLVED that the Minutes of the Ordinary and Confidential Council Meetings held Tuesday 15 September 2009 be adopted as a true and accurate record of proceedings of that meeting.

The Motion was **Carried**

FOR VOTE - Unanimous

a2 Apology - Cr P Youngblutt

Cr Youngblutt tabled a written apology, which was read to the meeting as follows:

"With respect to the statements I made referring to some members of the community as 'morons', I retract that statement and apologise to the elected members and Council as a whole if I brought Council into disrepute and I apologise to anyone in the community I may have offended.

I would like to table a copy of my statement with you Mr Mayor to pass onto the Minute Secretary to place on the public record."

APOLOGIES

Nil.

DISCLOSURE OF INTEREST

Cr W Polglase wishes to declare a conflict of interest in Item 5 in accordance with the Code of Conduct.

This declaration is as a result of a previous indirect association with the applicant.

Cr W Polglase wishes to declare a non significant, non-pecuniary interest in Items 9 and 51 in accordance with the Code of Conduct.

The declaration is as a result of a previous indirect association with the applicant.

Cr P Youngblutt wishes to declare a non significant, non-pecuniary interest in Items 9 and 51 in accordance with the Code of Conduct.

The declaration is as a result of a previous indirect association with the applicant.

Cr J van Lieshout wishes to declare a conflict of interest in Item 44 in accordance with the Code of Conduct.

The nature of the interest is that Cr J van Lieshout accords to Clause 7.6 of Council Code of Conduct - *"A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter."*

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

Nil.

SCHEDULE OF OUTSTANDING RESOLUTIONS

3 Schedule of Outstanding Resolutions as at 20 October 2009

The Schedule of Outstanding Resolutions as at 20 October 2009 was received and noted.

MAYORAL MINUTE

4 [MM] Mayoral Minute for the period 08 September – 09 October 2009

296

Cr W Polglase
Cr D Holdom

RESOLVED that:-

1. The Mayoral Minute for the period 08 September – 09 October 2009 be received and noted.
2. The attendance of Councillors at nominated Conferences be authorised.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

a4 [MM-CM] Minister for Local Government - World Rally Australia

LATE ITEM

297

Cr W Polglase
Cr P Youngblutt

RESOLVED that Item a4 being an Addendum Mayoral Minute be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

298

Cr W Polglase
Cr P Youngblutt

RESOLVED that Council receives and notes the advice from the Minister for Local Government, The Hon. Barbara Perry MP, regarding the involvement of the General Manager as a Director on World Rally Australia.

The Motion was **Carried**

FOR VOTE - Unanimous

ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

b4 [GM-CM] Regional and Local Community Infrastructure Program

LATE ITEM

299

Cr D Holdom

Cr P Youngblutt

RESOLVED that Item b4 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

FOR VOTE - Unanimous

300

Cr D Holdom

Cr P Youngblutt

PROPOSED that Council:-

1. Makes application to the Regional and Local Community Infrastructure Program- Community Grants - Round 2 for funding of the following projects under the non-competitive component:

(i)	Playground Audit and Fencing	\$67,500
(ii)	Chinderah Rock Wall Revetment	\$180,000
(iii)	Uki – Murwillumbah Cycleway (Bray Park Cutting)	\$152,500
(iv)	Fingal Boat Harbour Upgrade (including toilet block & play equipment)	<u>\$150,000</u>
	TOTAL	\$550,000

2. Makes application to the Regional and Local Community Infrastructure Program – Strategic Projects for the Murwillumbah Community Centre Project with a grant request of \$1,700,000.
3. Delegates the General Manager to be the Authorised Person (in accordance with this funding application) to enter into a funding agreement with the Commonwealth Department of Infrastructure, Transport, Regional Development and Local Government for the Regional and Local Community Infrastructure Program: Round Two.
4. Authorises all documentation be executed under the Common Seal of Council if necessary.

301

AMENDMENT

**Cr K Milne
Cr B Longland**

RESOLVED that Council:-

1. Makes application to the Regional and Local Community Infrastructure Program- Community Grants - Round 2 for funding of the following projects under the non-competitive component:

(i)	Playground Audit and Fencing	\$67,500
(ii)	Chinderah Rock Wall Revetment	\$180,000
(iii)	Uki – Murwillumbah Cycleway (Bray Park Cutting)	\$152,500
(iv)	Fingal Boat Harbour Upgrade (including toilet block & play equipment)	<u>\$150,000</u>
	TOTAL	<u>\$550,000</u>
- (v) In regard to Item 1(iv), that Council staff further investigate options for undertaking improvements at the northern Fingal boat harbour and delegate decision-making to the General Manager subject to discussions with Councillors and the Fingal Head Community Association.
2. Makes application to the Regional and Local Community Infrastructure Program – Strategic Projects for the Murwillumbah Community Centre Project with a grant request of \$1,700,000.
3. Delegates the General Manager to be the Authorised Person (in accordance with this funding application) to enter into a funding agreement with the Commonwealth Department of Infrastructure, Transport, Regional Development and Local Government for the Regional and Local Community Infrastructure Program: Round Two.

4. Authorises all documentation be executed under the Common Seal of Council if necessary.

The Amendment was **Carried**

FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr B Longland, Cr K Milne, Cr J van Lieshout
AGAINST VOTE - Cr W Polglase

The Amendment on becoming the Motion was **Carried** - (Minute No 301 refers).

FOR VOTE - Voting - Unanimous

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 5 [PR-CM] DA09/0466 - RISE Concept Plan Comprising Residential Retirement Living, Retail Commercial School and Open Space Precincts (MP08_0234) at Lot 1 DP 595529, Lot 1 DP 1033810, Lot 1 DP 1033807, Lot 4 DP 822786, Lot 31 DP 850230, Lot 2 DP 867486 and Lot 33 DP 1085109 Marana Street; Lot 31 DP 850230 Conmurra Avenue; Lot 2 DP 555026 147 McAllisters Road, Bilambil Heights

DECLARATION OF INTEREST

Cr W Polglase declared an Interest in this item, left the Chamber at 4.44pm and took no part in the discussion or voting. The nature of the interest is that Cr W Polglase had a previous association with the applicant.

CHAIRMANSHIP OF MEETING

Cr P Youngblutt, Deputy Mayor, chaired the meeting for this item.

302

Cr B Longland
Cr K Skinner

PROPOSED that Council:-

1. Endorses the attached draft submission and forwards it to the Department of Planning to enable future discussion between the Council, the Applicant and the Department of Planning; and
2. Accepts to own, operate and maintain the potable water supply and sewerage reticulation system in the proposed RISE community title subdivision, excluding any portions of the development that are gated communities, and conditional on the developer;

- providing infrastructure in accordance with the requirements of DCP A5 and to the satisfaction of the Director of Community and Natural Resources;
 - entering into an agreement with Council for the provision of the services;
 - providing normal easements where services are to be provided within private land (other than the community lot).
3. Requests that a report is brought forward outlining the options available to advance the strategic planning for Bilambil Heights Release Areas (including options in regards to the status of the Local Area Structure Plan prepared on behalf of the "Rise" development).
 4. Liaises with the Applicant regarding options for Community Facilities, including options for a review of S94 Plan No. 15 Community Facilities or alternatively a Voluntary Planning Agreement.

303

AMENDMENT 1

**Cr B Longland
Cr D Holdom**

PROPOSED that Council:-

1. Endorses the attached draft submission and forwards it to the Department of Planning to enable future discussion between the Council, the Applicant and the Department of Planning; and
2. Accepts to own, operate and maintain the potable water supply and sewerage reticulation system in the proposed RISE community title subdivision, excluding any portions of the development that are gated communities, and conditional on the developer;
 - providing infrastructure in accordance with the requirements of DCP A5 and to the satisfaction of the Director of Community and Natural Resources;
 - entering into an agreement with Council for the provision of the services;
 - providing normal easements where services are to be provided within private land (other than the community lot).
3. Requests that a report is brought forward outlining the options available to advance the strategic planning for Bilambil Heights Release Areas (including options in regards to the status of the Local Area Structure Plan prepared on behalf of the "Rise" development).

4. Liaises with the Applicant regarding options for Community Facilities, including options for a review of S94 Plan No. 15 Community Facilities or alternatively a Voluntary Planning Agreement.
5. Ensures that the submission to the Department of Planning conveys the strong desire of the Council to maintain the 3-storey height limit according to the Tweed LEP 2000 local context and community expectations expressed through our strategic planning processes.

Amendment 1 was **Carried**.

FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr B Longland, Cr K Milne

AGAINST VOTE - Cr K Skinner, Cr J van Lieshout

ABSENT. DID NOT VOTE - Cr Polglase

AMENDMENT 2

304

Cr K Milne

Cr B Longland

PROPOSED that Council:-

1. Endorses the attached draft submission and forwards it to the Department of Planning to enable future discussion between the Council, the Applicant and the Department of Planning; and
2. In addition to the issues raised in the Council report, Council seeks to further highlight that wildlife conservation should be of the highest priority and that further investigation is required in light of the Council report which states that, "The site is of very high conservation value, containing perhaps the highest concentration of threatened rainforest flora species of anywhere in NSW.
 - a) Opportunities for a Wildlife conservation subdivision model should be fully embraced.
 - b) Minimum standards of the Koala Beach development model should be applied, including a review of those standards.
 - c) Wildlife tourism concepts and Green economic opportunities that are sympathetic to conservation objectives should be provided in the concept stage.
 - d) Provision for long term wildlife monitoring should be established.
 - e) Any clearing or other works associated with the development should be carried out under wildlife friendly guidelines.
 - f) Opportunities to create partnerships for environmental education, facilities and research and development such as a biodiversity centre should be established.

- g) A fully integrated Biodiversity Strategy should be developed to substantially increase biodiversity outcomes in a whole systems approach.
 - h) That consideration be given to address the current wild dog problem at the site.
3. The provisions of the area zoned 6b) Recreation should remain in force and that opportunities for public recreation activities in this prime scenic location, to achieve the aims and objectives of the National Landscapes Tourism initiative, be implemented.
 4. Further investigation of partnership agreements with the Indigenous community should be required including opportunities for cultural, economic and tourism initiatives.
 5. Sustainability is of the highest priority in new developments.

The Council report 20th Oct 09 for Kings Forest, states that, "Ecologically Sustainable Development has been part of law for many years now but still few developments, in practice over time, can claim to be truly sustainable.

Larger developments offer the opportunity to use economies of scale to achieve good outcomes in this regard and to serve as good design for others to follow" (Council report 20th Oct 09 Item 51, attachment 1, page 44).

In legislation Sustainability is defined "to ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations".

With a number of large scale developments for Tweed currently in the planning stages there is a unique opportunity to achieve truly sustainable development and at the same time coordinate a complimentary green construction industry and green economy. Such planning would need to be incorporated at the earliest phase to achieve the greatest success and the greatest cost efficiencies.

A fully integrated Sustainable Development strategy would be required to coordinate such a process. Slow steps will fail this planet.

- a) It is strongly recommended that a revised sustainability assessment should be undertaken to further optimise Ecological Sustainable Development opportunities and to incorporate a whole systems approach that would consider all facets of the development.
- b) That the principles of Positive Development theory should be applied ie that a net positive impact to ecosystem services is achieved at all levels, and that includes innovations for bushfire protection .

- c) A Sustainability Strategy should be developed, including consideration of the logical and timely development of a Green industry to support such development.
 - d) That energy efficiency measures should achieve 10 star NatHERs ratings.
 - e) Further investigation is required to provide options for on site sewerage and water systems.
- 6. Best practice Social planning opportunities should be further investigated.
 - 7. Low cost affordable housing opportunities should be further investigated.
 - 8. Diverse forms of housing opportunities such as cluster housing should be further investigated.
 - 9. Council to write to inform the State Government of objection to the progression of the Rise development through the Part 3A process, beyond of Council's planning schedule and resource capabilities.
 - 10. As previously at 4.,but including Environmental facilities
 - 11. The proposal is considered an over development of the site in a fragile location. Densification of existing urban areas is preferred.

The Amendment 2 was **Lost**

FOR VOTE - Cr B Longland, Cr K Milne

AGAINST VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr J van Lieshout

ABSENT. DID NOT VOTE - Cr W Polglase

305

AMENDMENT 3

306

Cr J van Lieshout

Cr D Holdom

RESOLVED that Council:-

- 1. Endorses the attached draft submission and forwards it to the Department of Planning to enable future discussion between the Council, the Applicant and the Department of Planning; and
- 2. Accepts to own, operate and maintain the potable water supply and sewerage reticulation system in the proposed RISE community title

subdivision, excluding any portions of the development that are gated communities, and conditional on the developer;

- providing infrastructure in accordance with the requirements of DCP A5 and to the satisfaction of the Director of Community and Natural Resources;
 - entering into an agreement with Council for the provision of the services;
 - providing normal easements where services are to be provided within private land (other than the community lot).
3. Requests that a report is brought forward outlining the options available to advance the strategic planning for Bilambil Heights Release Areas (including options in regards to the status of the Local Area Structure Plan prepared on behalf of the "Rise" development).
 4. Liaises with the Applicant regarding options for Community Facilities, including options for a review of S94 Plan No. 15 Community Facilities or alternatively a Voluntary Planning Agreement.
 5. Ensures that the submission to the Department of Planning conveys the strong desire of the Council to maintain the 3-storey height limit according to the Tweed LEP 2000 local context and community expectations expressed through our strategic planning processes.
 6. Further expresses its concern in relation to overall sustainability aspects of the development given its sensitive nature and scale, and that the Department agrees to have further discussion with Councillors and staff in regard to those aspects.
 7. Extends an invitation to the Minister Planning NSW to visit the Tweed Shire to become better informed of a number of State significant planning proposals currently under consideration by the State government

Amendment 3 was **Carried**

FOR VOTE - Unanimous
ABSENT. DID NOT VOTE - Cr W Polglase

Amendment 3 on becoming the Motion was **Carried** - (Minute No 306 refers)

FOR VOTE - Unanimous
ABSENT. DID NOT VOTE - Cr W Polglase

RETURN TO MEETING

Cr W Polglase has returned from temporary absence at 05:08 PM and resumed the Chair.

- 6 [PR-CM] DA09/0527 - Part 3A Major Project Application for a 84 Lot Residential Subdivision (MP05_0198) at Lot 1 DP 167380; Lot 2 DP 961928; Lot 1 DP 134787; Lot 5 DP 1117326, Walmsleys Road and Stott Street, Bilambil Heights**

307

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:-

1. Council endorses the attached submission to the Department of Planning on the Major Project Application for a 84 lot residential subdivision (MP05_0198) at Lot 1 DP 167380; Lot 2 DP 961928; Lot 1 DP 134787; Lot 5 DP 1117326, Walmsleys Road and Stott Street, Bilambil Heights and forwards it to the Coastal Assessment Branch of the Department of Planning.
2. Extends an invitation to the Minister Planning NSW to visit the Tweed Shire to become better informed of a number of State significant planning proposals currently under consideration by the State government
3. Further expresses its concern in relation to overall sustainability aspects of the development given its sensitive nature and scale, and that the Department agrees to have further discussion with Councillors and staff in regard to those aspects.

308

AMENDMENT

**Cr K Milne
Cr B Longland**

PROPOSED that:-

1. Council endorses the attached submission to the Department of Planning on the Major Project Application for a 84 lot residential subdivision (MP05_0198) at Lot 1 DP 167380; Lot 2 DP 961928; Lot 1 DP 134787; Lot 5 DP 1117326, Walmsleys Road and Stott Street, Bilambil Heights and forwards it to the Coastal Assessment Branch of the Department of Planning.
2. In addition to the issues raised in the Council report, and in light of the site being subject to a potential koala corridor, Council seeks to further highlight that Koala, wildlife conservation and sustainability issues should be of the highest priority and that further investigation is required.
 - a. Opportunities for a Wildlife conservation subdivision model should be fully embraced.

- b. Minimum standards of the Koala Beach development model should be applied, including a review of those standards.
- c. Wildlife tourism concepts and Green economic opportunities that are sympathetic to conservation objectives should be provided in the concept stage.
- d. Provision for long term wildlife monitoring should be established.
- e. Any clearing or other works associated with the development should be carried out under wildlife friendly guidelines.
- f. Opportunities to create partnerships for environmental education, facilities and research and development such as a biodiversity centre should be established.
- g. A fully integrated Biodiversity Strategy should be developed to substantially increase biodiversity outcomes in a whole systems approach.

3. Sustainability is of the highest priority in new developments. The Council report 20th Oct 09 for Kings Forest, states that, "Ecologically Sustainable Development has been part of law for many years now but still few developments, in practice over time, can claim to be truly sustainable. Larger developments offer the opportunity to use economies of scale to achieve good outcomes in this regard and to serve as good design for others to follow" (Council report 20th Oct 09 Item 51, attachment 1, page 44).

In legislation Sustainability is defined "to ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations".

With a number of large scale developments for Tweed currently in the planning stages there is a unique opportunity to achieve truly sustainable development and at the same time coordinate a complimentary green construction industry and green economy. Such planning would need to be incorporated at the earliest phase to achieve the greatest success and the greatest cost efficiencies.

A fully integrated Sustainable Development strategy would be required to coordinate such a process. Slow steps will fail this planet.

- a. It is strongly recommended that a sustainability assessment should be undertaken to further optimise Ecological Sustainable Development opportunities and to incorporate a whole systems approach that would consider all facets of the development.
- b. That the principles of Positive Development theory should be applied ie that a net positive impact to ecosystem services is achieved at all levels, and that includes innovations for bushfire protection .
- c. A Sustainability Strategy should be developed, including consideration of the logical and timely development of a Green industry to support such development.

- d. That energy efficiency measures should achieve 10 star NatHERs ratings.
- e. Further investigation is required to provide options for on site sewerage and water systems.
4. Best practice Social planning opportunities should be further investigated.
5. Low cost affordable housing opportunities should be further investigated.
6. Diverse forms of housing opportunities such as cluster housing should be further investigated.

The Amendment was **Lost**

FOR VOTE - Cr B Longland, Cr K Milne, Cr J van Lieshout

AGAINST VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr W Polglase

The Motion was **Carried**

FOR VOTE - Unanimous

7 [PR-CM] Development Application DA09/0415 for Additions to Multi Unit Dwelling - Small Roof Structure at Lot 11 SP 79988, No. 11/1-3 Murphys Road, Kingscliff

309

**Cr D Holdom
Cr K Skinner**

RESOLVED that Development Application DA09/0415 for additions to multi unit dwelling - small roof structure at Lot 11 SP 79988, No. 11/1-3 Murphys Road, Kingscliff be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Planit Consulting dated July 2009 and plans prepared by Lightwave Architecture for 1289 One Murphy's Rd, plan numbers SK.01 to SK. 09, Issue A, dated 01.07.09, except where varied by the conditions of this consent.
[GEN0005]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0115]

BUSHFIRE PROTECTION

3. Construction shall comply with AS3959-1999 level 3 Construction of Buildings in Bushfire Prone Areas.
4. Roofing shall be gutterless or have leafless guttering and valley are to be screened to prevent the build up of flammable material.
5. The entire property shall be managed as an Inner Protection Area as outlined within Section 4.2.2 in the Planning for Bushfire Protection Guidelines 2001
6. Balconies should be non-combustible as per AS 3959.

[GENNS01]

7. No additional roof structures or roof terrace areas shall be proposed on the site unless otherwise approved by the General Manager or his delegate.

[GENNS02]

8. The consent is limited to the proposed roof, supporting columns and existing balustrade indicated on the approved plans and does not include any additional walls.

[GENNS03]

9. The colours and materials used in construction of the additional roof structure shall be compatible and consistent with the remainder of the existing building.

[GENNS05]

PRIOR TO COMMENCEMENT OF WORK

10. 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
 - (c) 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

- (d) 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.

[PCW0215]

11. 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]

12. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, 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.

[PCW0255]

13. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. Note All roof water must be connected to an interallotment drainage system where available.

DURING CONSTRUCTION

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

15. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of buildings with direct line of sight to the proposed building.

[DUR0245]

16. 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]

17. 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.

[DUR0405]

18. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- dust during filling operations and also from construction vehicles
- material removed from the site by wind

[DUR1005]

19. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

20. 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/demolition.

[DUR2185]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

21. 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]

310

AMENDMENT

**Cr K Milne
Cr B Longland**

PROPOSED that this item be deferred to a Workshop.

The Amendment was **Lost**

FOR VOTE - Cr B Longland, Cr K Milne

AGAINST VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr J van Lieshout, Cr W Polglase

The Motion was **Carried** (Minute Number 308 refers)

FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr J van Lieshout, Cr W Polglase

AGAINST VOTE - Cr B Longland, Cr K Milne

8 [PR-CM] Development Application DA08/0293 for a Two Lot into Six Lot Subdivision at Lot 12 DP 825726; Lot 25 DP 870463, No. 19 & 26 Waterlily Close, Nunderi

311

**Cr P Youngblutt
Cr K Skinner**

PROPOSED that Development Application DA08/0293 for a two lot into six lot subdivision at Lot 12 DP 825726; Lot 25 DP 870463, No. 19 and 26 Waterlily Close, Nunderi be deferred to the next meeting of Council.

The Motion was **Lost**

FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr W Polglase

AGAINST VOTE - Cr D Holdom, Cr B Longland, Cr K Milne, Cr J van Lieshout

312

**Cr D Holdom
Cr K Milne**

RESOLVED Development Application DA08/0293 for a two lot into six lot subdivision at Lot 12 DP 825726; Lot 25 DP 870463, No. 19 and 26 Waterlily Close, Nunderi be refused on the following grounds: -

1. The proposal does not comply with clause 15 of the Tweed Local Environmental Plan as satisfactory arrangements have not been made for the removal and disposal of sewerage.
2. The proposal does not comply with clause 21 of the Tweed Local Environmental Plan as each proposed allotment is not capable of accommodating adequate facilities for treatment and disposal of sewerage.
3. The information provided with the application is insufficient and the proposal may result in impacts on the amenity of the area and quality of the environment, including aquatic habitats.
4. The proposal does not comply with Council's Development Control Plan Section A5 – Subdivision Manual, particularly in relation to landforming.
5. The proposal does not adequately address issues raised by public submissions and is not in the public interest.

The Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr B Longland, Cr K Milne, Cr J van Lieshout

AGAINST VOTE - Cr K Skinner, Cr W Polglase

9 [PR-CM] Kings Forest Preferred Project Report - Concept Plan – Residential Community Development – Council's Submission to the Department of Planning

DECLARATION OF INTEREST

Cr W Polglase wishes to declare a non significant, non-pecuniary interest in Items 9 in accordance with the Code of Conduct.

The declaration is as a result of a previous indirect association with the applicant.

Cr P Youngblutt wishes to declare a non significant, non-pecuniary interest in Items 51 in accordance with the Code of Conduct.

The declaration is as a result of a previous indirect association with the applicant.

313

Cr B Longland
Cr D Holdom

PROPOSED that:-

1. Council endorses the attached draft submission in respect of the Kings Forest Preferred Project – Concept Plan – Residential Community Development – and submits it to the Department of Planning.
2. With respect to koala conservation, the submission should require strict adherence to the principles of SEPP 44 (Clause 3) and urge the Department of Planning to specify the principles applicable at the Koala Beach development at Pottsville as a basis for the protection of the Tweed Coast koala population.
3. Further expresses its concern in relation to overall sustainability aspects of the development given its sensitive nature and scale, and that the Department agrees to have further discussion with Councillors and staff in regard to those aspects.
4. Extends an invitation to the Minister Planning NSW to visit the Tweed Shire to become better informed of a number of State significant planning proposals currently under consideration by the State government

314

AMENDMENT 1

Cr K Milne
Cr B Longland

PROPOSED that:-

1. Council endorses the attached draft submission in respect of the Kings Forest Preferred Project – Concept Plan – Residential Community Development – and submits it to the Department of Planning.
2. With respect to koala conservation, the submission should require strict adherence to the principles of SEPP 44 (Clause 3) and urge the Department of Planning to specify the principles applicable at the Koala Beach development at Pottsville as a basis for the protection of the Tweed Coast koala population.
3. Further expresses its concern in relation to overall sustainability aspects of the development given its sensitive nature and scale, and that the Department agrees to have further discussion with Councillors and staff in regard to those aspects.

4. Extends an invitation to the Minister Planning NSW to visit the Tweed Shire to become better informed of a number of State significant planning proposals currently under consideration by the State government
5. As a first priority all options for resumption of preferably the entire site or parts of the land should be investigated.

Amendment 1 was **Lost**

FOR VOTE - Cr K Milne

AGAINST VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr B Longland, Cr J van Lieshout, Cr W Polglase

315

**Cr D Holdom
Cr B Longland**

RESOLVED that Standing Orders be suspended to deal with the items that Cr Milne wishes to put forward as amendments.

FOR VOTE - Unanimous

316

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that Standing Orders be resumed.

FOR VOTE - Unanimous

317

AMENDMENT 2

**Cr K Milne
Cr B Longland**

RESOLVED that:-

1. Council endorses the attached draft submission in respect of the Kings Forest Preferred Project – Concept Plan – Residential Community Development – and submits it to the Department of Planning.
2. With respect to koala conservation, the submission should require strict adherence to the principles of SEPP 44 (Clause 3) and urge the Department of Planning to specify the principles applicable at the Koala Beach development at Pottsville as a basis for the protection of the Tweed Coast koala population.

3. Further expresses its concern in relation to overall sustainability aspects of the development given its sensitive nature and scale, and that the Department agrees to have further discussion with Councillors and staff in regard to those aspects.
4. Extends an invitation to the Minister Planning NSW to visit the Tweed Shire to become better informed of a number of State significant planning proposals currently under consideration by the State government
5. Investigates:
 - a) Opportunities for a Wildlife conservation subdivision model should be fully embraced.
 - b) The eastern side of the development, including the whole of the Cudgen Paddock, and the Heathlands, (as outlined in the Milledge submission) should be preserved to establish the minimum area required to maintain biodiversity.
 - c) Further investigation of alternative access for the eastern entry road, including the possibility of the Reardon's/ Plantation Rd. should be provided.
 - d) Provision for long term wildlife monitoring should be established.
 - e) Any clearing or other works associated with the development including current pine removal activities should be carried out under wildlife friendly guidelines.
 - f) Wildlife tourism concepts and economic opportunities that are sympathetic to conservation objectives should be provided in the concept stage.
 - g) Opportunities to create partnerships for environmental education, facilities and research and development such as a biodiversity centre should be established.
 - h) A fully integrated Biodiversity Strategy should be developed to substantially increase biodiversity outcomes in a whole systems approach.
6. Best practice Social planning opportunities should be further investigated.
7. Low cost affordable housing opportunities, including cluster housing should be further investigated.
8. A sustainability strategy embracing principles of positive development with energy efficiency and wildlife tourism initiatives be investigated.
9. The proposal is considered a potential over development, in certain sites, mindful of its fragile location.

Amendment 2 was **Carried**

FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr B Longland, Cr K Milne, Cr J van Lieshout
AGAINST VOTE - Cr W Polglase

Amendment 2 on becoming the Motion was **Carried** - (Minute No 317 refers)

FOR VOTE - Voting - Unanimous

ADJOURNMENT OF MEETING

Adjournment for dinner at 6.34pm.

RESUMPTION OF MEETING

The Meeting resumed at 7.27pm

10 [PR-CM] Development Application DA08/1241.07 for an Amendment to Development Consent DA08/1241 for a New Dwelling, Inground Swimming Pool and Detached Granny Flat at Lot 281 DP 1120559, No. 11 Woodfull Crescent, Pottsville

318

Cr D Holdom
Cr P Youngblutt

RESOLVED that Development Application DA08/1241.07 for an amendment to development consent DA08/1241 for a new dwelling, in ground swimming pool and detached granny flat at Lot 281 DP 1120559, No. 11 Woodfull Crescent, Pottsville be approved subject to the following changes being made to the conditions of consent:-

1. Delete Condition 1 and replace with a new condition 1A as follows:
 - 1A. The development shall be completed in accordance with the Statement of Environmental Effects and the approved S96 Plans (DA08/1241.07) as follows:
 - Sheet Nos 1A, 2A, 3, 4, 5A, 6A, 7, 10, 12A, 13A, and 14A prepared by Parameter Designs and dated 09/06/2009, except where varied by the conditions of this consent.

[GEN0005]

The Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr B Longland, Cr J van Lieshout, Cr W Polglase
AGAINST VOTE - Cr K Milne

- 11 **[PR-CM] Development Application DA08/0911 for a Staged Integrated Housing Development Comprising 18 Residential Dwellings, Community Building, Car Parking, 19 Lot Community Title Subdivision with Pathway to Public Open Space at Lot 86 DP 1066472; Lot 238 DP 1070792, Salt Water Crescent & No. 41 Elliston Street, Kingscliff**

319

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:

- A. State Environmental Planning Policy No. 1 objection to Schedule 3 of the Tweed Local Environmental Plan 2000 regarding minimum allotment sizes in the 2(f) zone be supported and the concurrence of the Director-General of the Department of Planning be assumed, and
- B. Development Application DA08/0911 for a staged integrated housing development comprising 18 residential dwellings, community building, car parking, 19 lot community title subdivision (inclusive of common lot) with pathway to public open space at Lot 86 DP 1066472; Lot 238 DP 1070792, Saltwater Crescent and No. 41 Elliston Street, Kingscliff be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and the following Plans:
 - Plan No. 2008 02 - 01b Revision 1 (Community Lots) dated 22/04/09, prepared by Anstey Designer Homes
 - Plan No. 2008 02 - 01c Revision 1 (Site Plan Ground) dated 22/04/09, prepared by Anstey Designer Homes
 - Plan No. 2008 02 01d Revision 1 (Site Plan Upper) dated 22/04/09, prepared by Anstey Designer Homes
 - Plan No. 2008 02-01h Revision 2 (Concept Landscape Plan) (as amended in red) dated 30/09/09, prepared by Anstey Designer Homes
 - Plan No. 2008 02 - 01h/s Revision 1 (Streetscape Fencing Design) (as amended in red) dated 22/04/09, prepared by Anstey Designer Homes
 - Plan No. 01/01 Issue 1A (Vehicle Manoeuvring Plan) dated 17 April 2009, prepared by Greg Alderson and Associates Pty Ltd
 - Plan No. 2008 02 - 02 (Lot 1 Model DR Floor Plans) dated 3/06/08, prepared by Anstey Designer Homes

- Plan No. 2008 02 - 02c (Lot 1 Model DR Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 02d (Lot 1 Model DR Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 03 (Lot 2 Model D2 Floor Plans) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 03c (Lot 2 Model D2 Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 03d (Lot 2 Model D2 Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 04 (Lots 3-5 Model D Floor Plans) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 04/6 (Lot 6 Model D Floor Plans) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 04c (Lots 3-6 Model D Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 04d (Lots 3-6 Model D Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 05 (Lots 7, 9, 10, 12 and 13 Model A Floor Plans) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 05c (Lots 7 - 13 Model A Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 05d (Lots 7 - 13 Model A Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 06 (Lots 8 and 11 Model A2 Floor Plans) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 06c (Lots 8 and 11 Model A2 Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 06d (Lots 8 and 11 Model A2 Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 07 (Lot 14 Model E1 Floor Plans) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 07c (Lot 14 Model E1 Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 07d (Lot 14 Model E1 Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 08 (Lot 15 Model E2 Floor Plans) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 08c (Lot 15 Model E2 Elevations) dated 3/06/08, prepared by Anstey Designer Homes

- Plan No. 2008 02 - 08d (Lot 15 Model E2 Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 09 (Lot 16 Model C Floor Plans) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 09c (Lot 16 Model C Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 09d (Lot 16 Model C Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 10 (Lot 17 Model B3 Floor Plans) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 10c (Lot 17 Model B3 Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 10d (Lot 17 Model B3 Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 11 (Lot 18 Model B2 Floor Plans) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 11c (Lot 18 Model B2 Elevations) dated 3/06/08, prepared by Anstey Designer Homes
- Plan No. 2008 02 - 11d (Lot 18 Model B2 Elevations) dated 3/06/08, prepared by Anstey Designer Homes,

except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

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

[GEN0125]

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

[GEN0135]

5. A Construction Certificate approval is to be obtained for all proposed pre-cast concrete panel fencing of any height and masonry fencing in excess of 1.2 metres in height, prior to any construction of the fence being commenced.

Site specific design details or approved generic details prepared by a practicing structural engineer are required to be submitted and approved as part of the Construction Certificate application.

Such structural engineers design details are to confirm that the fence proposal has been designed to take account of all site issues including the site's soil and load bearing characteristics, wind and other applied loadings, long term durability of all components particularly in relation to corrosion and compliance with Tweed Shire Council's policies for "Sewers - Building in Proximity" and provision of appropriate pedestrian sight clearances to footpaths in accordance with Australian Standard AS2890 "Parking Facilities".

[GEN0145]

6. 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 the road reserve or footpath for connecting access pathways to Casuarina Way. 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.

[GEN0245]

7. Stormwater management shall be in general accordance with the Stormwater Management Report prepared by Greg Alderson and Associates Pty Ltd, dated 17th April 2009, except where varied by the conditions of this consent.

The proposed Gross Pollutant Trap (GPT) must be installed upstream of the proposed On Site Detention (OSD) tank.

[GENNS01]

8. Erosion and Sediment Control shall be designed, installed and maintained 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".

[GENNS02]

9. All works shall be retained within the development site. No parking, storage or access is permitted to occur through the adjoining public land.

[GENNS03]

10. Should the existing landscaping on the adjoining public land be affected by construction, it must be repaired to the satisfaction of Council's General Manager or delegate.

[GENNS04]

11. The proposed access path on Community Land, north of the development (Lot 86 DP1066472) is acceptable provided the following are achieved:
 - i. Any damage to the existing garden bed shall be repaired.
 - ii. No plants are permitted within 1m of the path so as not to overgrow the path. Any plants within this distance are to be removed using appropriate horticultural methods.

- iii. An inspection of the completed works associated with this path must be undertaken by Council's Recreation Services staff in the presence of the developer's representative before any occupation certificate is issued.

[GENNS05]

12. The site is to be developed into a Community Title Subdivision. The plan of subdivision shall be registered with the Lands Titles Office prior to issue of any occupation certificate for any dwelling associated with this consent.

[GENNS06]

13. Outdoor security lighting shall be located and designed so as to avoid light spill into the living and sleeping areas of the dwelling. Light spill shall be confined to the source property.

[GENNS07]

14. All air conditioning and barbeque facilities shall be consistent with the Tweed Development Control Plan Section A1.

[GENNS08]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

15. The developer shall provide the following parking facilities including parking for the disabled (as required) in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

- A minimum of 2 car parking spaces per dwelling,
- A minimum of 5 visitor car spaces with unrestricted access,
- A minimum of 2 car wash bays – note Council will accept these car wash bays being of dual use with visitor car spaces

Full design detail of the proposed parking and manoeuvring areas shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.

[PCC0065]

16. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,552).

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

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

[PCC0275]

17. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

18. All earthworks shall be graded at a minimum of 1% so that the site drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional runoff or ponding occurring within neighbouring properties.

All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a Construction Certificate application for Council approval.

[PCC0485]

19. Prior to the issue of a Construction Certificate for Civil works, the following detail in accordance with Councils Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

- (a) copies of compliance certificates relied upon
- (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
 - earthworks
 - roadworks / access including;
- (c) Provision of an 6.0m wide private access in accordance with Section A2 – “*Site Access and Parking Code*” of Council’s consolidated Tweed Development Control Plan and Council’s “*Driveway Access to Property – Part 1*” Design Specification June 2004.

The access shall provide the required 2m x 2m “sight triangle” envelope at the entrance to Salt Water Crescent.

- stormwater drainage including;
- (d) Permanent stormwater quality treatment, sized according to Council’s Development Design Specification D7 – *Stormwater Quality*, Section D7.12.
 - water supply works including;
 - (e) Internal reticulation and hydrants,

- (f) Bulk water meter
 - sewerage works including;
- (g) New manhole off existing stub in western corner of the site,
 - internal reticulation
 - landscaping works
 - sedimentation and erosion management plans
 - location of all service conduits (water, sewer, Country Energy and Telstra)

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

[PCC0985]

20. 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 may 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:
 - (e) Shake down area shall be installed within the property, immediately prior to any vehicle entering or exiting the site prior to any earthworks being undertaken.

- (f) Runoff from all hardstand areas, (including car parking and hardstand landscaping areas and excluding roof areas) must be treated to remove oil and sediment contaminants prior to discharge to the public realm. All permanent stormwater treatment devices must be sized according to Council's Development Design Specification D7 – *Stormwater Quality*, Section D7.12. Engineering details of the proposed devices, including maintenance schedules, shall be submitted with a s68 Stormwater Application for approval prior to issue of a Construction Certificate.
- (g) Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly.

[PCC1105]

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

[PCC1125]

22. Stormwater

- (a) 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.
- (b) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
- (c) 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.
- (d) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
- (e) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).

- (f) 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).
- (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (h) 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.
- (i) All infiltration devices are to be designed to allow for construction and operation vehicular loading.
- (j) All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

23. The development is required to provide a single bulk water service, placed at a suitable location within the subject land off Salt Water Crescent, to the satisfaction of the Director of Engineering Services.

Individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

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.

[PCC1185]

24. An application shall be lodged and approved by Tweed Shire Council under Section 68 of the Local Government Act for the installation of stormwater quality control devices prior to the issue of a Construction Certificate.

The Legal Point of Discharge for piped stormwater for the development is via connection into the existing field inlet and 450mm dia pipe in the north-western corner of the site.

[PCC1195]

25. The applicant shall prepare a site plan and applicable elevations demonstrating the central letterbox structure is consistent with the Tweed Development Control Plan Section A1. The plans shall be prepared to the satisfaction of Council's General Manager or delegate.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

26. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

27. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved management plans or the like, shall be installed/operated in accordance with those conditions or plans.

[PCW0015]

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

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

[PCW0025]

29. 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
- (c) 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
- (d) 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.

[PCW0215]

30. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

31. Residential building work:

- (a) 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:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - * in the name and licence number of the principal contractor, and
 - * the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - * the name of the owner-builder, and
 - * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (b) 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.

[PCW0235]

- 32. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:-

- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

- 33. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, 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.

[PCW0255]

- 34. Any imported fill material shall be from an approved source.

[PCW0375]

- 35. Civil work in accordance with a development consent must not be commenced until:-

- (a) a Construction Certificate for the civil work has been issued in accordance with Councils Development Design and Construction Specification C101 by:
 - (i) the consent authority, or
 - (ii) an accredited certifier, and
- (b) the person having the benefit of the development consent:
 - (i) has appointed a principal certifying authority,

- (ii) has appointed a Subdivision Works Accredited Certifier (SWAC) in accordance with Tweed Shire Council's Development Control Plan, Part A5 - Subdivision Manual, Appendix C, with accreditation in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the SWAC shall possess accreditation in the following categories:
 - C4: Accredited Certifier – Stormwater management facilities construction compliance
 - C6: Accredited Certifier – Subdivision road and drainage construction compliance
 - (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment,
 - (iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and
- (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the civil work.

[PCW0815]

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

[PCW0835]

37. 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.

[PCW0985]

38. 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]

DURING CONSTRUCTION

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

[DUR0005]

40. If during construction works any Aboriginal object or relic is disturbed or uncovered, works are to cease and the Department of Environment, Climate Change and Water are to be notified immediately, in accordance with the provisions of the National Parks and Wildlife Act 1974.

[DUR0025]

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

42. 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.

LAeq 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.

LAeq 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]

43. 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]

44. 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]

45. 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.

[DUR0405]

46. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.

[DUR0415]

47. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".

[DUR0795]

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

[DUR0815]

49. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.

[DUR0905]

50. Provision to be made for the designation of two durable and pervious car wash-down bays. The wash bays must be appropriately sized and identified for that specific purpose and be supplied with an adequate water supply for use within the areas. Any surface run-off from the area must not discharge directly to the stormwater system.

[DUR0975]

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

[DUR0985]

52. 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 any Occupation Certificate.

[DUR0995]

53. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- dust during filling operations and also from construction vehicles
- material removed from the site by wind

[DUR1005]

54. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. Such materials shall either be recycled or disposed of in a manner acceptable to Councils General Manager or his delegate.

[DUR1015]

55. 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]

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

[DUR1055]

57. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

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

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

[DUR1805]

59. During the construction of the access, tests shall be undertaken by a Registered NATA Geotechnical firm. A report, including copies of test results shall be submitted to the PCA demonstrating;

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

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

[DUR1825]

60. The proponent must not undertake any work within the public road reserve without giving Council's Engineering and Operations Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.

[DUR1845]

61. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to any use or occupation of any buildings.

[DUR1875]

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

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre kerb (if proposed)
- (f) Pavement - pre seal
- (g) Pathways, footways, bikeways - formwork/reinforcement (as required)
- (h) Final inspections - on maintenance
- (i) Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits

- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures
- (g) Drainage channels
- (h) Final inspection - on maintenance
- (i) Off maintenance

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

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

[DUR1895]

63. Where the kerb or footpath is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb or footpath must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.

[DUR1905]

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

[DUR2015]

65. Swimming Pools (Building)

- (a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 – 2007 and AS 1926.3 -2003. (Refer Council's web site www.tweed.nsw.gov.au)
- (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.

[DUR2075]

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

[DUR2085]

67. 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/demolition.

[DUR2185]

68. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".

[DUR2195]

69. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

70. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.

[DUR2425]

71. All waters that are to be discharged from the site shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l. 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]

72. 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]

73. 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]

74. 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]

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

[DUR2505]

76. 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]

77. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

[DUR2545]

78. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-

- * 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50°C in all other classes of buildings.

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

[DUR2555]

79. Where two (2) or more premises are connected by means of a single water service pipe, individual water meters shall be installed to each premise beyond the single Council water meter.

[DUR2615]

80. Sedimentation and erosion control measures shall be placed and maintained to the satisfaction of the General Manager.

[DURNS01]

81. Fixed bollards (or equivalent) shall be provided between the proposed car wash bays and Casuarina Way to prevent vehicles from entering or exiting the site in this location.

[DURNS02]

82. Landscaping of the subject site is to be undertaken in accordance with Landscaping Concept Plans (Sheets 1 to 11) dated May 2009 prepared by Bizscapes unless otherwise authorised by the General Manager or his delegate.

[DURNS03]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

83. Prior to issue of an occupation certificate, all works/actions/inspections and the like required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[POC0005]

84. 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]

85. 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 professionally 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.

[POC0265]

86. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

87. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.

[POC0475]

88. 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.

[POC1045]

89. Prior to occupation of any building and prior to the issue of an occupation certificate Council shall be provided with a report by a suitably qualified person which confirms that construction elements utilised in the various buildings comply with the report, Residential Development lot 238 Saltwater Crescent, Kingscliff, Acoustic Design Review, Ron Rumble P/L July 2008.

[POCNS01]

USE

90. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.

[USE0125]

91. Except as may be expressly provided in a licence approval under the Protection of the Environment Operations Act 1997 (POEO) Act, the licence holder must comply with section 120 of the POEO Act 1997 prohibiting the pollution of waters.

[USE0155]

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

[USE0175]

93. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.

[USE0225]

94. All plant and equipment installed or used in or on the premises: -
- (a) Must be maintained in a proper and efficient condition, and
 - (b) Must be operated in a proper and efficient manner.

In this condition, "plant and equipment" includes drainage systems, infrastructure, pollution control equipment and fuel burning equipment.

[USE0315]

95. All commercial / industrial / residential wastes shall be collected, stored and disposed of in accordance with any approved Waste Management Plan or to the satisfaction of the General Manager or his delegate.

[USE0875]

96. The premises shall be maintained in a clean and tidy manner.

[USE0965]

97. The keeping of dogs, cats or other animals on the property is to be in accordance with any relevant 88B Instrument requirements.

[USE1245]

98. 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).

(c) Warning notices required under Part 3 of the Swimming Pool Regulations 2008 shall be maintained at all times.

[USE1295]

99. Any water stored within on site water storage tanks shall not be utilised for potable purposes. Appropriate signage shall be provided to the satisfaction of the General Manager.

[USENS01]

100. All shared community facilities shall be maintained in a clean and tidy at all times.

[USENS02]

101. Collection points for domestic waste from the development are not to restrict access to the bus stop located on Casuarina Way.

[USENS03]

102. If the subdivision certificate at any stage is to be released prior to construction of the proposed dwellings, an appropriate restriction as to user is to be placed on the title of each lot stating that a dwelling may only be constructed on the lot in accordance with DA08/0911.

[USENS04]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

103. Prior to issue of a subdivision certificate, all works/actions/inspections/ conditions of consent associated with the subdivisional component of the development and the Construction Certificate for Civil Works shall be completed in accordance with those conditions or plans.

[PSC0005]

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

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

Water DSP6:	17.2 ET @ \$10709 per ET	\$184,194.80
South Kingscliff Water Levy:	17.2 ET @ 248.4 per ET	\$4,272.00
Sewer Kingscliff:	17.6 ET @ \$5146 per ET	\$90,569.60

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

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

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

[PSC0165]

105. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

These charges include indexation provided for in the S94 Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

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

- (a) Tweed Road Contribution Plan:
 - 110.5 Trips @ \$955 per Trips \$105,528
 - (\$868 base rate + \$87 indexation)
 - S94 Plan No. 4
 - Sector7_4
- (b) Shirewide Library Facilities:
 - 17 ET @ \$374 per ET \$6,358
 - (\$374 base rate + \$0 indexation)
 - S94 Plan No. 11
- (c) Bus Shelters:
 - 17 ET @ \$26 per ET \$442
 - (\$26 base rate + \$0 indexation)
 - S94 Plan No. 12
- (d) Eviron Cemetery:
 - 17 ET @ \$131 per ET \$2,227
 - (\$131 base rate + \$0 indexation)
 - S94 Plan No. 13
- (e) Community Facilities (Tweed Coast - North)
 - 17 ET @ \$492 per ET \$8,364
 - (\$492 base rate + \$0 indexation)
 - S94 Plan No. 15
- (f) Emergency Facilities (Surf Lifesaving):
 - 17 ET @ \$200 per ET \$3,400
 - (\$200 base rate + \$0 indexation)
 - S94 Plan No. 16
- (g) Extensions to Council Administration Offices
& Technical Support Facilities
 - 17 ET @ \$1996.8 per ET \$33,945.60
 - (\$1996.8 base rate + \$0 indexation)
 - S94 Plan No. 18

- (h) Cycleways:
 - 17 ET @ \$352 per ET \$5,984
 - (\$352 base rate + \$0 indexation)
 - S94 Plan No. 22
- (i) Regional Open Space (Casual)
 - 17 ET @ \$855 per ET \$14,535
 - (\$855 base rate + \$0 indexation)
 - S94 Plan No. 26
- (j) Regional Open Space (Structured):
 - 17 ET @ \$2327 per ET \$39,559
 - (\$2327 base rate + \$0 indexation)
 - S94 Plan No. 26

[PSC0175]

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

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

[PSC0215]

107. A bond shall be lodged prior to the issue of the subdivision certificate to ensure that the landscaping is maintained by the developer for a period of 6 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.

[PSC0235]

108. Prior to the issue of a Subdivision Certificate, Works as Executed Plans of the constructed access road and the constructed civil services to all properties associated with the development shall be submitted in accordance with the provisions of Tweed Shire Council Development Control Plan A5 - Subdivisions Manual and Councils Development Design and Construction Specification, D13 - Engineering Plans.

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

- (a) all drainage lines, sewer lines, services and structures are wholly contained within the relevant easement created by the subdivision;
- (b) the plans accurately reflect the Work as Executed.

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

[PSC0735]

109. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions associated with the subdivision component of this Development Consent, including the construction of all services to all properties within the development and the construction of the access road have been complied with.

[PSC0825]

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

- (a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.
- (b) A Restriction As To User requiring that all roofwater from houses, buildings or structures shall be discharged to an approved infiltration pit located on the subject property. The infiltration pit shall be approved by the Principle Certifying Authority.

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.

Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the Community Land Development Act, Strata Titles Act, Conveyancing Act, or other applicable legislation.

[PSC0835]

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

[PSC0855]

112. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Council within three months of registration of the Subdivision Certificate in accordance with the Survey Practices Regulation.

[PSC0865]

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

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.

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

[PSC0885]

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

- (a) Compliance Certificate – Roads
- (b) Compliance Certificate – Water Reticulation
- (c) Compliance Certificate – Sewerage Reticulation
- (d) Compliance Certificate - Drainage

Note:

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

[PSC0915]

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

[PSC0925]

116. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation (including household connections) shall be provided to all lots within the subdivision in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications and the Construction Certificate approval.

Fire Hydrants spacing, sizing and pressures shall comply with Council's DCP – Section A5 – Subdivision Manual, associated Development Design and Construction Specifications and AS2419.1-2005. Location of hydrants to be appropriately marked with standard blue reflectors on road pavement.

A new sewer manhole shall be constructed off the existing sewer main stub in western corner of the site. This manhole will become public infrastructure. All internal sewer infrastructure servicing the development from this manhole will become private infrastructure. An easement for drainage of sewer, benefiting Council must extend a minimum of 1.0 beyond this manhole.

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.

[PSC1115]

117. The production of written evidence from the local telecommunications supply authority certifying that the provision and commissioning of underground telephone supply at the front boundary of the allotment has been completed.

[PSC1165]

118. Electricity

- (a) The production of written evidence from the local electricity supply authority certifying that reticulation of underground electricity has been completed; and
- (b) The reticulation to include the provision of fully installed electric street lights to the relevant Australian standard.

[PSC1185]

119. Prior to the issue of a subdivision certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[PSCNS01]

120. Prior to issue of Subdivision Certificate a final Community Management Statement is to be submitted too and approved by Council. The statement is to include provisions for (but not be limited to) the use of the access road by emergency services, bona fide members of the public and public authorities.

The statement must also provide a Utility Services plan, showing works as executed (WAE).

[PSCNS02]

121. The applicant shall formally lodge a S96 application for DA02/1422 to amend and update the approved Staging Plan for SALT, prior to the release of a subdivision certificate for Stage 3.

[PSCNS03]

The Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr J van Lieshout, Cr W Polglase

AGAINST VOTE - Cr B Longland, Cr K Milne

- 12 [PR-CM] Development Application DA05/0824.07 for a Section 96 Amendment to DA05/0824 for Multi Dwelling Housing Comprising Four (4) Units at Lot 4 Section 2 DP 7309, No. 26 Seaview Street, Kingscliff**

320

**Cr D Holdom
Cr K Skinner**

RESOLVED that:

- A. Development Application DA05/0824.07 for a Section 96 amendment to DA05/0824 for multi dwelling housing comprising four (4) units at Lot 4 Section 2 DP 7309, No. 26 Seaview Street, Kingscliff be approved and the consent be amended as follows:
1. Condition No. 1 be deleted and replaced with Condition No. 1A which reads as follows:

1A The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 62531 sheet 1-4 of 7 inclusive prepared by Gordon Bismire and dated 09/02/07 (revised 24/02/09), Plan Nos 62531 sheet 5 of 7 prepared by Gordon Bismire and dated 09/03/09 (revised 07/07/09), Plan Nos 62531 sheet 1 of 1 prepared by Gordon Bismire and dated 09/03/09 (revised 07/07/09), Plan Nos LP01 prepared by Boyds Bay Landscape & Environmental and dated 11.03.09, (as amended in Red on the approved plans) except where varied by the conditions of this consent.

[GEN0005]

2. The addition of Condition Nos 6.1 and 76.1:

6.1 Details of natural ventilation be provided for each of the laundries of Units 1-4 to the satisfaction of the Director Planning and Regulation.

[GENNS03]

76.1 Prior to the issue of an occupation certificate a surveyor's report prepared by a registered surveyor is to be submitted to Council detailing the height of the building at all relevant points as detailed on the approved plans Plan Nos 62531 sheet 1-4 of 7 inclusive prepared by Gordon Bismire and dated 09/02/07 (revised 24/02/09), Plan Nos 62531 sheet 5 of 7 prepared by Gordon Bismire and dated 09/03/09 (revised 07/07/09), Plan Nos 62531 sheet 1 of 1 prepared by Gordon Bismire and dated 09/03/09 (revised 07/07/09), (as amended in Red on the approved plans) to the satisfaction of Council's General Manager or his delegate. All levels are to be provided in Australian Height Datum.

[POCNS03]

76.2 The two Norfolk Pine trees located on the eastern end of the subject site adjacent to Seaview Street, as identified on Plan Nos LP01 prepared by Boyds Bay Landscape and Environmental and dated 11.03.09, (as amended in Red on the approved plans) are to be removed prior to the issuing of an occupation certificate, at the proponents' expense. It is the proponents' responsibility to ensure that a suitably qualified and experienced person in tree removal is used for the removal of the two Norfolk Pine trees

B. A Penalty Infringement Notice for the sum of \$1500 be issued to Gordon Bismire Builder for the non-compliance with Development Consent DA05/0824.

- C. The applicant be advised that if the rectification works have not commenced within 30 days from the date of this amended consent Council will commence Class 5 Criminal proceedings in the Land and Environment Court. Any additional breaches of the development consent as amended will result in Council commencing Class 5 Criminal proceedings in the Land and Environment Court.
- D. Attachment 1 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

The Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr J van Lieshout, Cr W Polglase

AGAINST VOTE - Cr B Longland, Cr K Milne

13 [PR-CM] Development Application DA04/0580.15 for an Amendment to Development Consent No. DA04/0580 for Retail Shops at Lot A DP 380558; Lot 1 DP 772440; Lot B DP 380558; Lot 1 DP 1104696; Lot 1 SP 77979, No. 10-12; 14 & 16 Brisbane Street, Murwillumbah

321

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Development Application DA04/0580.15 for an amendment to Development Consent No. DA04/0580 for retail shops at Lot A DP 380558; Lot 1 DP 772440; Lot B DP 380558; Lot 1 DP 1104696; Lot 1 SP 77979, No. 10-16 Brisbane Street, Murwillumbah be approved and the conditions be amended as follows: -

1. Delete Condition No. 1B and replace it with Condition No. 1C which reads as follows: -
 - 1C. The development shall be completed in accordance with the Statement of Environmental Effects and Plan No's P478WD-01 (Rev C); WD-02 (Rev C); WD-03 (Rev C); WD-04 (Rev C); WD-05 (Rev C); and WD-06 (Rev A) prepared by Glen Petersen Architects and dated 18/07/05, except where modified by Plan No. P478WD-02 (Rev H) dated 5 December 2005, except where modified by Plan No. SH1/2-4309 (as highlighted), prepared by Mina Drafting Pty Ltd and dated 18 August 2009 (2 Sheets), except where varied by these conditions.
2. Delete Condition No. 18A and replace it with Condition No. 18AA which reads as follows:-

18AA. 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 for the outdoor area adjacent to Shop 1 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: \$19,479

S94 Plan No. 4 (Version 4.0)

Sector9_4

b. Shirewide Car Parking

2 space/s @ \$15907 per space/s \$31814

(\$0 base rate + \$15907 indexation)

S94 Plan No. 23

3. The following new GENERAL condition are to be ADDED as Condition 6H and 6I:

6H. A construction certificate is required for the proposed roof structure over the outdoor area adjacent to Shop 1.

6I. The construction certificate shall incorporate details of the fire rated wall which is required along the eastern external boundary of the proposed outdoor area, in accordance with the provisions of the Building Code of Australia (BCA).

4. The following new PRIOR TO CONSTRUCTION CERTIFICATE condition is to be ADDED as Condition 18C:

18C. 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 applicable to the outdoor area adjacent to Shop 1 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:

Outdoor Area Adjacent to Shop 1

Water DSP2: 0.0936 ET @ \$10709 per ET \$1002.40
Sewer Murwillumbah: 0.2114 ET @ \$5146 per ET \$1087.90

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

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

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

5. The following new PRIOR TO CONSTRUCTION CERTIFICATE condition is to be ADDED as Condition 18D:
 - 18D. Prior to the issue of a Construction Certificate for the roof structure over the outdoor area adjacent to Shop 1, documentation is to be submitted demonstrating that the Right of Carriageway over the outdoor area has been extinguished, to the satisfaction of Council's General Manager or his delegate.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

14 [PR-CM] Fees in Relation to Construction Certificate Applications

322

Cr K Skinner
Cr J van Lieshout

RESOLVED that Council: -

1. Approves the public exhibition of the proposal to increase the Construction Certificate fee for all classes of buildings including the flat rate for single dwellings by \$50.00.
2. Notes that a further report will be submitted to Council following the completion of the public exhibition referred to in (1) above, seeking final Council endorsement of the proposed fee increases.
3. Advises Coastline Building Certification Group Pty Ltd that their submission has been reviewed and a marginal increase is proposed to Construction Certificates however Council considers that a flat fee for single dwellings and alterations and additions to single dwellings is equitable due to the manner in which these applications are assessed.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

15 [PR-CM] Alcohol Free Zones

323

Cr K Skinner
Cr P Youngblutt

RESOLVED that Council:

1. Approves the establishment and timeframes of alcohol-free zones in accordance with section 644B of the Local Government Act 1993, within the Tweed Heads, Tweed Heads South, Kingscliff, Salt, Cabarita Beach and Murwillumbah areas over roads, footpaths and public carparks for a maximum period of four (4) years expiring no later than 1 December 2013 as follows:

TWEED HEADS

- Wharf Street between Bay Street and the Queensland border
- Bay Street, east of Wharf Street to John Follent Park
- Chris Cunningham Park public carpark

24 hours per day, all days

TWEED HEADS SOUTH

- Public car park adjoining South Tweed Swimming Pool, Home and Community Care (HACC) and skate park

24 hours per day, all days

KINGSCLIFF

- Marine Parade between Turnock Street and Cudgen Creek
- Turnock Street between Marine Parade and Pearl Street
- Pearl Street between Turnock Street and Seaview Street
- Seaview Street between Pearl Street and Marine Parade
- Lions Park and Faulks Park public car parks and the public carpark adjoining Kingscliff Memorial Park

24 hours per day, all days

SALT

- Bells Boulevard

Between the hours of 4pm December 31 to 10am January 1

CABARITA BEACH

- Pandanus Parade
- Public carpark between Palm Avenue and Pandanus Parade

24 hours per day, all days

MURWILLUMBAH

- Queensland Road between 'Harry Williams Gate' of the Murwillumbah Showgrounds and Murwillumbah Street
- Public car park area near Mount Saint Patricks School on Queensland Road
- Bent Street between Queensland Road and Church Street
- Church Street between Bent Street and Queen Street
- Alice Street between Queen Street and Church Street
- Church Lane
- Police Lane
- Bruce Lane
- Queen Street between Murwillumbah Street and Church Street
- Murwillumbah Street between Nullum Street and Queen Street
- Wharf Street between Queen Street and Tumbulgum Road
- Proudfoots Lane
- Public car parks between Wollumbin Street and Proudfoots Lane

- Commercial Road between Wharf Street and King Street
- King Street between Commercial Road and Brisbane Street
- Public carpark between Lavender Lane and King Street
- Lavender Lane
- Brisbane Street between Murwillumbah Street and Condong Street
- Condong Street between Brisbane Street and Nullum Street
- Nullum Street between Condong Street and Murwillumbah Street
- Wollumbin Street between Nullum Lane and Commercial Road
- Nullum Lane between Wollumbin Street and Byangum Road
- Byangum Road between Nullum Lane and Muwillumbah Street
- Alma Street between Commercial Road and Tweed Valley Road
- Tumbulgum Road between Wharf Street and Racecourse Road
- Public carparks adjoining Tweed Shire Council civic centre and swimming pool
- Sunnyside Lane
- Factory Lane between King Street and Wollumbin Street
- Budd Park public carpark
- Knox Park public carpark
- Red Cross Hall public carpark

24 hours per day, all days

Excluding those businesses approved by Council for the purposes of footpath dining whilst those businesses are trading.

2. Delegates to the General Manager authority to vary or suspend the zones for special circumstances.
3. A report be brought forward addressing the incorporation of all of the public area in and around Norries Headland as an alcohol free zone applicable from sunset to sunrise.

The Motion was **Carried**

FOR VOTE - Unanimous

16 [PR-CM] Progress Report for the 2009/10 Planning Reform Unit Work Program

324

**Cr P Youngblutt
Cr K Skinner**

PROPOSED that Council receives and notes the Progress Report for the 2009/10 Planning Reform Unit Work Program.

325

AMENDMENT

**Cr J van Lieshout
Cr W Polglase**

RESOLVED that the Planning Reform Unit Work Program be amended to enable Council to consider Boyds Bay Garden World site as a short term priority.

The Amendment was **Carried**

***FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr J van Lieshout, Cr W Polglase
AGAINST VOTE - Cr D Holdom, Cr B Longland, Cr K Milne***

The Amendment on becoming the Motion was **Carried** - (Minute No 325 refers)

***FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr J van Lieshout, Cr W Polglase
AGAINST VOTE - Cr D Holdom, Cr K Milne, Cr B Longland***

17 [PR-CM] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards

326

**Cr P Youngblutt
Cr K Skinner**

RESOLVED that Council notes for the month of September 2009 that there are no Variations to Development Standards under State Environmental Planning Policy No 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

- 18 [PR-CM] Development Application DA09/0006 for a Four (4) Lot Industrial Subdivision, Construction of Part of Ozone Street and Associated Drainage at Lot 1 DP 102255, No. 16-18 Ozone Street, Chinderah

327

Cr D Holdom
Cr P Youngblutt

RESOLVED that Development Application DA09/0006 for a four (4) lot industrial subdivision at Lot 1 DP 102255, No. 16-18 Ozone Street Chinderah be approved subject to the following conditions: -

"DEFERRED COMMENCEMENT"

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within 6 months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 67 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

SCHEDULE "A"

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 67 of the Regulations as amended.

- A. A Habitat Restoration Plan relating to a specific site and approved by Council's General Manager or his delegate which demonstrates adequate replacement on a 2 for 1 basis of the Swamp Oak Floodplain Forest impacted by the proposed development. The Habitat Restoration Plan must include:
- a schedule and timing of works to be undertaken
 - a statement of commitment by the consent holder to funding the proposed works
 - a statement of commitment by the consent holder that the works will be completed by qualified and experienced bush regeneration personnel.

- B. An Aboriginal archaeological heritage assessment shall be prepared by a suitably qualified and experienced consultant to the satisfaction of Council's General Manager or his delegate to determine the impact of the proposed subdivision and road works. The assessment shall include consultation with the Tweed Byron Local Aboriginal Land Council and any other related stakeholders. The assessment shall also include any mitigation and management measures where required.

SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos: SK20090604 (9m wide road) and SK20090610 (road layout) prepared by Opus Qantec McWilliam and dated June 2009, Figure 6.0 (9m wide road option 2) as amended in red, prepared by Opus Qantec McWilliam and dated November 2008, DWG 00926-01 (Proposed Subdivision Plan) prepared by Planit Consulting and dated October 2008, and the Habitat Restoration Plan approved under Schedule A of this consent, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0125]

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

[GEN0135]

4. The level of fill placed on the site shall not exceed RL 2.0m AHD.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,552).

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

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

[PCC0275]

6. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

7. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.

All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

8. A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be prepared by an RTA accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.

[PCC0865]

9. The proponent shall submit plans and specifications with an application for construction certificate for the following civil works and any associated subsurface overland flow and piped stormwater drainage structures designed in accordance with Councils adopted Design and Construction specifications.

URBAN ROAD

- (a) Construction of an urban bitumen sealed road formation with upright kerb & gutter to a 9m sealed pavement width within a 17m road reserve width as per Council's road works standards for an access street with a bus route.

INTERSECTION

- (b) Construction of an intersection layout for a basic left turn treatment in accordance with AUSTRROADS Pt 5 "Intersections at Grade" giving particular attention to sight distance.

[PCC0875]

10. Prior to the issue of a Construction Certificate the following detail in accordance with Councils adopted Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

- (a) copies of compliance certificates relied upon
- (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
- earthworks
 - roadworks/furnishings
 - stormwater drainage
 - water supply works
 - sewerage works
 - landscaping works
 - sedimentation and erosion management plans
 - location of all service conduits (water, sewer, Country Energy and Telstra)

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

[PCC0985]

11. 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.

[PCC1105]

12. 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

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.

Where Council is requested to issue a construction certificate for civil works associated with this consent, the abovementioned works can be incorporated as part of the cc application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

[PCC1145]

13. 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]
14. Where water is to be drawn from Councils reticulated system, the proponent shall: -
- Make application for the hire of a Tweed Shire Council metered standpipe including Councils nomination of point of extraction.
 - Where a current standpipe approval has been issued application must be made for Councils nomination of a point of extraction specific to the development.
 - Payment of relevant fees in accordance with Councils adopted fees and charges.
- [PCC1205]
15. Prior to the issue of a construction certificate the applicant is required to lodge an application to install/operate an onsite sewerage management system (private sewage ejection pump station) under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with an approval.
- [PCC1285]
16. Engineering plans and specifications lodged with an application for a construction certificate are to provide detail for the following works: -
- Common sewer rising main to be accepted as Council infrastructure with each lot to have a private pressure pump station.
 - The pump stations are to be designed within a small compound that includes the control box and concrete slab.
 - A boundary assembly shall be provided for each lot which is no more than 1m from the point on the boundary where the main from the pump station crosses into the road reserve.

- The pump stations and rising main are to be designed in accordance with Council's design and construction specifications and the WSA 07 pressure sewer code of Australia.

[PCCNS01]

17. Prior to issue of a construction certificate a Sediment & Erosion Control Management Plan relating to the access road and open drain shall be provided to Council to the satisfaction of Council's General Manager or delegate.

[PCCNS02]

18. Prior to issue of a construction certificate a Water Quality Monitoring Program shall be provided to Council to the satisfaction of Council's General Manager or delegate.

[PCCNS02]

19. Adequate transverse drainage shall be provided to connect existing stormwater runoff discharge points from the north of Ozone Street through to the open drain on the southern side of the new carriageway. Details of the transverse drainage shall be submitted with the s68 Stormwater Application for separate Council approval prior to the issue of a construction certificate.

20. Roadworks in Ozone Street shall maintain the integrity of the earth bund along the southern boundary of the road reserve.

21. Any works associated with the Ozone Street road construction that encroach on private land require the written consent of the affected landholder(s). A copy of the consent(s) shall be submitted to the PCA prior to the works being undertaken.

[PCCNS03]

PRIOR TO COMMENCEMENT OF WORK

22. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

23. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

24. Civil work in accordance with a development consent must not be commenced until:-
- (a) a construction certificate for the civil work has been issued in accordance with Councils adopted Development Design and Construction Specification C101 by:
 - (i) the consent authority, or
 - (ii) an accredited certifier, and
 - (b) the person having the benefit of the development consent:
 - (i) has appointed a principal certifying authority,
 - (ii) has appointed a Subdivision Works Accredited Certifier (SWAC) in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the SWAC shall possess accreditation in the following categories:
 - C4: Accredited Certifier – Stormwater management facilities construction compliance
 - C6: Accredited Certifier – Subdivision road and drainage construction compliance

The SWAC shall provide documentary evidence to Council demonstrating current accreditation with the Building Professionals Board prior to approval and issue of any Construction Certificate, and

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

[PCW0815]

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

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

This sign is to remain in position for the duration of the project.

[PCW0985]

26. All imported fill material shall be from an approved source. Prior to the commencement of work details of the source of fill, description of material and documentary evidence that the fill material is free from any contaminants shall be submitted to Tweed Shire Council for approval.

[PCWNS01]

27. Prior to the commencement of works on the access road and open drain an inspection is to be arranged with Council's Environmental Health Officer to ensure the implementation of the Acid Sulfate Soil Management Plan prepared by HMC Environmental Consulting Pty Ltd dated June 2009 is undertaken.

[PCWNS02]

28. Prior to the commencement of any demolition works on the site a development application for demolition is to be submitted to and approved by Council.

[PCWNS03]

29. Commencement of works in accordance with the approved Habitat Restoration Plan must be demonstrated prior to clearing of the Swamp Oak Floodplain Forest vegetation.

30. A permit under s198-202 of the Fisheries Management Act 1994 for dredge and reclamation activities must be obtained prior to commencement of the works.

31. A permit under s205 of the Fisheries Management Act 1994 for harm to marine vegetation (seagrass, mangroves, kelp) must be obtained prior to commencement of the works.

32. Environmental safeguards (silt curtains, booms etc.) are to be utilised during reconstruction of the drainage line to ensure there is no escape of turbid plumes into the aquatic environment. Erosion and sediment controls must be in place prior to commencing, during and after works.

[PCWNS04]

33. Before commencing any works or using any existing works for the purpose of Temporary Dewatering for Construction Purposes, a Controlled Activity Approval under the Water Management Act 2000 must be obtained from the Department of Environment, Climate Change and Water. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.

[PCWNS05]

34. Appropriate measures are to be put in place during the construction and/or demolition 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]

DURING CONSTRUCTION

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

[DUR0005]

36. 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 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

37. 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.

LA eq 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.

LA eq 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]

38. All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded to the satisfaction of Council's General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation.

[DUR0225]

39. All lots must be graded to prevent the ponding of surface water and be adequately vegetated to prevent erosion from wind and/or water to the satisfaction of the General Manager or his delegate.

[DUR0745]

40. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".

The earthworks shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to the Principal Certifying Authority upon completion.

[DUR0795]

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

[DUR0815]

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

[DUR0985]

43. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate.

[DUR0995]

44. All work associated with this approval is to be carried out so as not to impact on neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- Minimise impact from dust during filling operations and also from construction vehicles
- No material is removed from the site by wind

[DUR1005]

45. 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]

46. A concrete footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire length of the Ozone Street upgrade in accordance with Councils Development Design and Construction Specifications and Standard Drawing SD013.

Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork and subgrade to be inspected.

[DUR1735]

47. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

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

- (a) That the pavement has been designed in accordance with Tweed Shire Councils Development Design Specification, D2.
- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.
- (c) That site fill areas have been compacted to the specified standard.

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

[DUR1805]

49. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

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

Roadworks

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

Water Reticulation, Sewer Reticulation, Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures

- (g) Drainage channels
- (h) Final inspection - on maintenance
- (i) Off maintenance

Sewer Pump Station

- (a) Excavation
- (b) Formwork/reinforcement
- (c) Hydraulics
- (d) Mechanical/electrical
- (e) Commissioning - on maintenance
- (f) Off maintenance

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

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

[DUR1895]

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

[DUR2015]

52. Inter allotment drainage shall be provided to all lots where roof water for future structures cannot be conveyed to the street gutter by gravitational means.

[DUR2285]

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

[DUR2355]

54. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

55. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.

[DUR2425]

56. All waters that are to be discharged from the site shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l. 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]

57. 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]

58. All works associated with the access road and open drain are to be undertaken in accordance with the Acid Sulfate Soil Management Plan prepared by HMC Environmental Consulting Pty Ltd dated June 2009.

[DURNS01]

59. The approved water quality monitoring program is to be implemented during any earthworks or construction activity for any runoff from the site, and is to continue until stabilisation of any exposed areas.

[DURNS02]

60. Vegetation clearing at all locations shall be limited to the minimum necessary for the road alignment, and all works sites, stockpile areas, storage facilities and vehicle parking and maintenance areas shall be located on already disturbed land, avoiding any necessity for the clearing of vegetation for these activities.

61. Sand, gravel, silt, topsoil or other materials must not be stockpiled within 50 metres of the water unless surrounded by sediment control measures.

62. All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.

[DURNS02]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

[PSC0005]

64. 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.

A Subdivision Certificate shall NOT be issued unless the Certifying Authority is satisfied provisions pursuant to Section 109J of the EP&A Act, 1979 have been complied with and the Certifying Authority has sighted Councils contributions sheet and Certificate of Compliance signed by an authorised officer of Council.

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

Water DSP5:	4.8 ET @ \$10709 per ET	\$51403.20
Sewer Kingscliff:	15.5041 ET @ \$5146 per ET	\$79784.10

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

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

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.

[PSC0165]

65. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979, a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

These charges 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:

19.5 Trips @ \$861 per Trips \$16790

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

S94 Plan No. 4

Sector6_4

(b) Extensions to Council Administration Offices

& Technical Support Facilities

0.6001 ET @ \$1996.8 per ET \$1198.28

(\$1996.8 base rate + \$0 indexation)

S94 Plan No. 18

[PSC0175]

66. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, 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.

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5 prior to the issue of a construction certificate. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$ heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads
(trip one way)

$\text{\$Unit}$ the unit cost attributed to maintaining a road as set out in Section 7.2 (currently 5.4c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.6

[PCC0225/PSC0185]

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

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

[PSC0215]

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

[PSC0725]

69. Prior to the issue of a Subdivision Certificate, Works as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council Development Control Plan A5 - Subdivisions Manual and Councils Development Design and Construction Specification, D13 - Engineering Plans.

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

- (a) all drainage lines, sewer lines, services and structures are wholly contained within the relevant easement created by the subdivision;
- (b) the plans accurately reflect the Work as Executed.

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

[PSC0735]

70. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.

[PSC0825]

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

- (a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.
- (b) A Section 88B restriction to user shall be placed on the land title of each new allotment to limit site coverage of structures and permanent improvements to retain a minimum of 50% of the area available for flood flow.

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 carriage way or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0835]

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

[PSC0855]

73. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Council within three months of registration of the Subdivision Certificate in accordance with the Survey Practices Regulation.

[PSC0865]

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

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 7.6 and Councils Application for Subdivision Certificate including the attached notes.

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

[PSC0885]

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

- (a) Compliance Certificate - Roads
- (b) Compliance Certificate - Water Reticulation
- (c) Compliance Certificate - Sewerage Reticulation
- (d) Compliance Certificate - Drainage

Note:

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

[PSC0915]

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

[PSC0925]

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

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

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

[PSC1065]

78. Prior to issuing a Subdivision Certificate, reticulated water supply and sewerage reticulation shall be provided to all lots within the subdivision in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications and the Construction Certificate approval.
79. 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.

[PSC1115]

80. The production of written evidence from the local telecommunications supply authority certifying that satisfactory arrangements have been made for the provision of underground telephone supply.

[PSC1165]

81. Electricity

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

[PSC1185]

82. Prior to the issue of a subdivision certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[PSCNS01]

83. Primary weeding and/or planting and establishment will be completed in accordance with Habitat Restoration Plan prior to issue of subdivision certificate

[PSCNS02]

84. Prior to the issue of a Subdivision Certificate, a positive covenant under Section 88B of the Conveyancing Act is to be placed on the title of the proposed allotments to the satisfaction of Council's General Manager or his delegate. The covenant shall inform future owners that Tweed Shire Council will maintain the pressure pump station and delivery pipe system and require access to install and maintain the pressure pump station. The pump station will remain the property of Council. The 88B Instrument shall benefit Tweed Shire Council and contain a provision enabling the easement or right of access to be revoked, varied or modified only with the consent of Council.

[PSCNS03]

The Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr B Longland, Cr J van Lieshout, Cr W Polglase
AGAINST VOTE - Cr K Milne

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

19 [CNR-CM] Banora Point Wastewater Treatment Plant Upgrade - Selection of Tender Panel for Construction

328

Cr D Holdom
Cr P Youngblutt

RESOLVED that: -

1. Council accepts the following four contractors for inclusion on the tender panel for the upgrading of the Banora Point Wastewater Treatment Plant subject to receipt of a satisfactory financial risk assessment for Fulton Hogan Pty Ltd: -

Monadelphous Engineering Pty Ltd
Tenix Alliance Pty Ltd
Fulton Hogan Pty Ltd
Reed Constructions Australia Pty Ltd

2. Council accepts the following two contractors as reserves for the tender panel for the upgrading of the Banora Point Wastewater Treatment Plant: -

Haslin Constructions Pty Ltd
United Group Infrastructure Pty Ltd

3. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) or Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed: -

(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.

The Motion was **Carried**

FOR VOTE - Unanimous

20 [CNR-CM] Tweed District Water Supply Augmentation - Process to Augment and Methodology to Determine a Preferred Option

329

**Cr P Youngblutt
Cr K Skinner**

PROPOSED that Council:-

1. Notes the methodology used to determine the short-listed options in the Water Supply Augmentation Options Report Stages 1 and 2 Coarse Screen (October 2009).
2. Adopts the recommendations from the Water Supply Augmentation Options Report Stages 1 and 2 - Coarse Screen as below:
 - i. Tweed Shire Council carry out further investigations under the Stage 3 'fine screen' process on the options:
 - Option 1 - Raising of Clarrie Hall Dam;
 - Option 2 – a New Dam on Byrrill Creek; and
 - Option 5 - Link to South East Queensland Water Grid.
 - ii. Due to potentially long-lead times with these short-listed options, a contingency option be investigated based on a combination of the following (short delivery time) options:
 - Option 4 - Link to Rous Water;
 - Option 5 - Link to South East Queensland Water Grid; and
 - Option 7 – Groundwater Supply.
3. Adopts the methodology proposed in this report to determine a preferred option in the Water Supply Augmentation Options Report Stage 3 - Fine Screen.
4. Adopts the methodology proposed for community consultation during the Water Supply Augmentation Options Report Stage 3 as detailed in the Communication Plan attachment to this report.
5. Adopts the methodology proposed for the establishment of a Community Working Group during the Water Supply Augmentation Options Report Stage 3 as detailed in the Terms of Reference, Selection Criteria and Independent Selection Panel attachments to this report.
6. Appoints two Councillors based on the selection criteria as representatives on the community working group.

330

AMENDMENT

**Cr P Youngblutt
Cr K Skinner**

RESOLVED that Council:-

1. Notes the methodology used to determine the short-listed options in the Water Supply Augmentation Options Report Stages 1 and 2 Coarse Screen (October 2009).
2. Adopts the recommendations from the Water Supply Augmentation Options Report Stages 1 and 2 - Coarse Screen as below:
 - i. Tweed Shire Council carry out further investigations under the Stage 3 'fine screen' process on the options:
 - Option 1 - Raising of Clarrie Hall Dam;
 - Option 2 – a New Dam on Byrill Creek; and
 - Option 5 - Link to South East Queensland Water Grid.
 - ii. Due to potentially long-lead times with these short-listed options, a contingency option be investigated based on a combination of the following (short delivery time) options:
 - Option 4 - Link to Rous Water;
 - Option 5 - Link to South East Queensland Water Grid; and
 - Option 7 – Groundwater Supply.
3. Adopts the methodology proposed in this report to determine a preferred option in the Water Supply Augmentation Options Report Stage 3 - Fine Screen.
4. Adopts the methodology proposed for community consultation during the Water Supply Augmentation Options Report Stage 3 as detailed in the Communication Plan attachment to this report.
5. Adopts the methodology proposed for the establishment of a Community Working Group during the Water Supply Augmentation Options Report Stage 3 as detailed in the Terms of Reference, Selection Criteria and Independent Selection Panel attachments to this report.

The Amendment was **Carried**

FOR VOTE - Unanimous

The Amendment on becoming the Motion was **Carried** - (Minute No 330 refers)

331

Cr W Polglase
Cr K Skinner

RESOLVED that the Councillor representatives on the Community Working Group be Cr Youngblutt and Cr van Lieshout.

The Motion was **Carried**

FOR VOTE - Unanimous

21 **[CNR-CM] Tweed Community Options - Annual Report 2008/2009**

332

Cr K Skinner
Cr P Youngblutt

RESOLVED that Council reviews the Annual Report for 2008/2009 and authorises it to be placed on Council's website under the banner of "Tweed Community Options".

The Motion was **Carried**

FOR VOTE - Unanimous

22 **[CNR-CM] Offer of Gift of Additional Land for the Art Gallery Precinct**

333

Cr K Milne
Cr D Holdom

RESOLVED that Council:

1. Accepts the offer of the gift of the additional land from Mr Anthony conditional on the appropriate surveys and subdivision being undertaken.
2. Acknowledges the gift of land through formal letter of thanks to Mr Anthony.
3. Authorises the General Manager to implement the land transfer and to have any documentation duly executed under the Common Seal of Council.

The Motion was **Carried**

FOR VOTE - Unanimous

23 [CNR-CM] Proposed Support Coordination Project to be recurrently funded by Department of Ageing Disability and Home Care (DADHC)

334

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:-

1. Council agrees to enter into the 3 year contract with Department of Ageing Disability & Home Care (DADHC) commencing immediately with funding for the first year totalling \$463,284.
2. All documentation relating to the contract be executed under the common seal of Council and returned to DADHC.
3. The Memorandum of Understanding be updated to formally link the three nominated Community Options Projects who operate across the Far North Coast of NSW ensuring all aspects of the contracted obligations are met by all parties and under the auspice of Tweed Shire Council.

The Motion was **Carried**

FOR VOTE - Unanimous

24 [CNR-CM] Request for "In Kind" Support/Waive Fee

335

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council:-

1. With reference to the request from The Tweed Hospital, provides the Tweed Heads Civic Centre Auditorium free of charge on 11 December 2009 for the annual Volunteers Christmas Party, and that Council's support is recognised with the following acknowledgement "This program has been supported by Tweed Shire Council".

2. With reference to the request from The Tweed Hospital, provides the Tweed Heads Civic Centre Auditorium free of charge on 19 November 2009 for the Tweed Hospital Remembrance Service, and that Council's support is recognised with the following acknowledgement "This program has been supported by Tweed Shire Council".

The Motion was **Carried**

FOR VOTE - Unanimous

25 [CNR-CM] Fire Mitigation Works Fund 2009/2010 - Allocation

336

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:-

1. Council accepts the financial assistance from the State Government of \$20,000 for establishment of a new fire trail with signage at Mt Terragon, Byrrill Creek and allocates funding for the works prior to reimbursement.
2. All documentation be completed under the common seal of Council.

The Motion was **Carried**

FOR VOTE - Unanimous

26 [CNR-CM] Entomological Control Report for period July to September 2009

337

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that the Entomological Control Report for the period July to September 2009 be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

27 [EO-CM] Road Closure Application - Parish of Condong

338

Cr D Holdom
Cr K Skinner

RESOLVED that:-

1. Council objects to the closure of the Crown public roads east of Lot B in DP 108798 at Tygalgah;
2. Council does not object to the closure and purchase by the applicant of the section of Crown road reserve which runs north of Lots 1 and 2 in DP 22417 at Condong;
3. An application be made to the Department of Lands to transfer to Council the section of Crown Road reserve east of Lot B in DP 108798 at Tygalgah.

The Motion was **Carried**

FOR VOTE - Unanimous

28 [EO-CM] Road Closure Application - Parish of Wollumbin

339

Cr D Holdom
Cr K Skinner

RESOLVED that:-

1. Council objects to the closure of the Crown public roads along the eastern boundary and running east to west through Lot 2 DP 589095 and the north western boundary of Lot 17 and Lot 30 DP 755754;
2. Council does not object to the closure and purchase by the applicant of the section of Crown road reserve which runs south to north through Lot 2 in DP 589095, excluding the northern section leading to the Oxley River;
3. An application be made to the Department of Lands to transfer to Council the section of Crown Road reserve along the eastern boundary and running east to west through Lot 2 DP 589095 and the north western boundary of Lot 30 DP 755754.

The Motion was **Carried**

FOR VOTE - Unanimous

29 [EO-CM] Road Closure Application - Terragon, Parish of Wollumbin

340

**Cr D Holdom
Cr K Skinner**

RESOLVED that Council does not object to the closure and purchase by the applicant of the section of Crown road reserve within Lot 4 in DP 610080 at Terragon.

The Motion was **Carried**

**FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr B Longland, Cr J van Lieshout, Cr W Polglase
AGAINST VOTE - Cr K Milne**

30 [EO-CM] Road Closure Application - Parish of Murwillumbah

341

**Cr D Holdom
Cr K Skinner**

RESOLVED that:-

1. Council objects to the closure of the section of Crown Road reserve through Lot 90 in DP 755724.
2. Council does not object to the closure and purchase by the applicant of the section of Crown road reserve which runs through Lot 146 and lot 13 in DP 755724;
3. An application be made to the Department of Lands to transfer to Council the section of Crown Road reserve through Lot 90 in DP 755724.

The Motion was **Carried**

**FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr B Longland, Cr J van Lieshout, Cr W Polglase
AGAINST VOTE - Cr K Milne**

31 [EO-CM] Road Closure Application - Chillingham, Parish of Murwillumbah

342

**Cr D Holdom
Cr K Skinner**

RESOLVED that Council objects to the closure and purchase by the applicant of the section of Crown road reserve west of Lot 6 DP 861987 at Chillingham.

The Motion was **Carried**

FOR VOTE - Unanimous

32 [EO-CM] Road Closure Application - Parish of Berwick

343

**Cr D Holdom
Cr K Skinner**

RESOLVED that Council objects to the closure and purchase by the applicant of the section of Crown road reserve within Lot 1 DP 701195 and within Lot 2 DP 776307 and on the northern boundary of Lot 1 in DP 380325 and Lot 21 in DP 1041101 at Urliup.

The Motion was **Carried**

FOR VOTE - Unanimous

33 [EO-CM] Road Closure Application - Parish of Kynnumboon

344

**Cr D Holdom
Cr K Skinner**

RESOLVED that Council does not object to the closure and purchase by the applicant of the section of Crown road reserve west of Lot 2 DP 131202, Blackwoods Road, Nobbys Creek.

The Motion was **Carried**

FOR VOTE - Unanimous

34 [EO-CM] Road Closure Application - Parish of Cudgen

This item was dealt with at Item 39 (Minute No 348 refers).

35 [EO-CM] Road Closure Application - Kings Forest - Parish of Cudgen

345

Cr D Holdom

Cr P Youngblutt

RESOLVED that Council:-

1. Based on the provisions of Council's Road Closure policy point 2 and 3 objects to the closure of the road reserve east of Lot 77 DP 755701, east and north of Lot 76 DP 755701, north of lots 71 DP 819194 and Lots 1 and 2 DP 1129391, east and north of Lot 4 DP 1062132, east of Lot 1 in DP 1062132 and through Lot 2 DP 819015 (as shown in Figure 1 of the report).
2. Based on the provisions of Council's Road Closure policy point 3 (wildlife corridors etc) and the fact that private drainage infrastructure is existing within the road, and that the road reserve is partially formed that Council expresses its concerns regarding the matters to the Department of Lands in regard to the closure of the road reserve west of Lots 37A and 38A in DP 13727, south of Lots 38A and 38B DP 13727 and Lot 40 in DP 7482 and the road reserve running south to north between Lots 37A, and through Lot 1 DP 129737 and the road reserve separating Lot 1 DP 781633 and Lot 6 DP 875446 (as shown in Figure 2 of the report).
3. Based on the provisions of Council's Road Closure policy points 2 (private property access) and 3 (wildlife corridors etc) that Council expresses its concern to the Department of Lands in regard to the closure of the Crown road reserve through Lot 326 DP 755701 (as shown in Figure 3 of the report).
4. Does not object to the closure and purchase by the applicant of the road reserve running along the western boundary of Lot 38B in DP 13727 (as shown in Figure 2d of the report).
5. Advise Department of Lands that the road reserve east of Lots 76 and 77 in DP 755701 is Council road reserve and as such the applicant will be required to make application to close this section of road directly to Council.
6. Based on the provisions of Council's Road Closure Policy point 4 (public infrastructure), Council objects to the road closure of the crown road reserve south of Lot 307 DP 755701.

The Motion was **Carried**

FOR VOTE - Unanimous

36 [EO-CM] Road Closure Application - Cudgen Nature Reserve - Parish of Cudgen

346

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council does not object to the closure of the Crown public road west of Lot 5 DP 865915, west and within Lots 224 and 225 DP 755701, separating Lot 5 DP 865915 and Lots 224 and 225 in DP 755701 from Cudgen Creek and within Lot 307 DP 755701 at Kings Forest.

The Motion was **Carried**

FOR VOTE - Unanimous

37 [EO-CM] Land Acquisition for Road - Dodds Road, Chinderah

347

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:-

1. Council approves the acquisition of Lots 1, 2, 3 and 7 in DP 1130131 for public road under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act, 1993 and the making of the necessary application to the Minister and/or Governor;
2. Council approves the acquisition of Lots 4 to 6 in DP 1130131 for compensation purposes under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act, 1993 and the making of the necessary application to the Minister and/or Governor;
4. Lots 1, 2, 3 and 7 in DP 1130131 be dedicated as road following gazettal of the acquisition; and
5. All necessary documentation be executed under the Common Seal of Council.

The Motion was **Carried**

FOR VOTE - Unanimous

38 [EO-CM] Land Acquisition for Drainage Purposes - Lot 1 in DP 1141926 - Hastings Point

This item was withdrawn on the advice of the Director Engineering and Operations.

39 [EO-CM] Road Closure Application - Parish of Cudgen Lot 4 DP 1062132

348

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council objects to the closure of the section of Crown Road reserve north and east of Lot 4 in DP 1062132 at Duranbah.

The Motion was **Carried**

FOR VOTE - Unanimous

40 [EO-CM] EC2009-095 Supply and Delivery of Bitumen Emulsion

349

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:

1. The tender from Downer Edi Works be accepted for the Supply and Delivery of Bitumen Emulsion for a two (2) year period from 1 November 2009 until 31 October 2011. Supply rates are subject to rise and fall and linked to the General Market Price for C170 bitumen ex Mobil NSW list price currently at \$880 / tonne (GST Excl)

2. The ATTACHMENT be treated as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

The Motion was **Carried**

FOR VOTE - Unanimous

- 41 **[EO-CM] Tender EC2009-091 for the Supply of Two (2) Road Maintenance Units (RMU), and One (1) Pavement Maintenance Unit (PMU) and Three (3) Prime Mover Chassis and trade-in offer for all Three (3) existing TSC Complete Units**

350

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:-

1. The tender from Gold Coast Isuzu be accepted to the value of \$235,495.99 inclusive of GST.
2. The tender from Ausroad be accepted to the value of \$609,158.99 inclusive of GST.
3. The ATTACHMENT be treated as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

The Motion was **Carried**

FOR VOTE - Unanimous

42 [EO-CM] River Street Upgrade - Community Consultation

351

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council:-

1. Adopts the Upgrade Plan as exhibited for River Street.
2. Proceeds to detailed design of the various elements identified in the Upgrade Plan.
3. Constructs Sections 1 and 2 of the upgrade in 2009/2010 and 2010/2011 financial years.
4. Monitors traffic in River and Wardrop Streets to determine the effectiveness of the upgrade.

The Motion was **Carried**

***FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr B Longland, Cr K Milne, Cr J van Lieshout, Cr W Polglase
AGAINST VOTE - Cr K Skinner***

43 [EO-CM] Speeding Traffic - Crescent Street, Cudgen

352

**Cr B Longland
Cr K Milne**

RESOLVED that two 'rubber type' speed humps be installed in Crescent Street Cudgen in locations determined by Council's Traffic Engineer in consultation with local residents.

The Motion was **Carried**

***FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr B Longland, Cr K Milne, Cr J van Lieshout
AGAINST VOTE - Cr D Holdom, Cr W Polglase***

44 [EO-CM] Traffic Impacts - Uki Village - Nightcap Development

DECLARATION OF INTEREST

Cr J van Lieshout declared an Interest in this item, left the Chamber at 8.17pm and took no part in the discussion or voting.

The nature of the interest is that Cr J van Lieshout accords to Clause 7.6 of Council Code of Conduct - *"A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter."*

353

Cr B Longland

Cr K Milne

RESOLVED that Council endorses the proposed "entry statement" treatments as mitigating traffic impacts within Uki Village by the Nightcap Village development and pursues budgetary options for the provision of further footpaths in Uki village to enhance pedestrian safety.

The Motion was **Carried**

FOR VOTE - Unanimous

ABSENT. DID NOT VOTE - Cr van Lieshout

RETURN TO MEETING

Cr J van Lieshout has returned from temporary absence at 08:20 PM

45 [EO-CM] Amendment of Council's Fees and Charges - Quarry Products

354

**Cr P Youngblutt
Cr D Holdom**

RESOLVED that the 2009/10 Fees and Charges be amended as follows:-

Product	Existing Price per tonne incl.	Proposed Price per tonne GST incl.
COUNCIL SALES (EX QUARRY)		
Raw Gravel	\$9.60	\$9.60
Overburden/Fill	\$2.50	\$2.50
Crushed/Screened Gravel	\$12.00	\$13.00
Aggregate 75 + mm	\$12.00	\$13.00
Aggregate 30 – 70mm	\$12.00	\$13.00
Aggregate 20mm	\$13.00	\$14.50
Aggregate 10mm	\$13.00	\$14.50
Aggregate 7mm	\$15.00	\$17.00
Cracker Dust	\$11.00	\$11.00
Screened Topsoil	\$12.00	\$12.50
Screened Sand	\$12.00	\$12.50
PRIVATE SALES INCLUDES RTA/PUBLIC BODIES (EX QUARRY)		
Raw gravel	\$9.60	\$9.60
Overburden/Fill	\$4.80	\$2.50
Crushed/Screened Gravel	\$15.10	\$15.10
Aggregate 75 + mm	\$13.15	\$15.50
Aggregate 30 – 70mm	\$13.15	\$15.50
Aggregate 20mm	\$13.75	\$16.50

Product	Existing Price per tonne incl.	Price GST	Proposed Price per tonne GST incl.
Aggregate 10mm	\$13.75		\$16.50
Aggregate 7mm	\$17.10		\$19.00
Cracker Dust	\$11.20		\$11.20
Screened Topsoil	\$12.50		\$12.50
Screened Sand	\$12.50		\$12.50

The Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr B Longland, Cr J van Lieshout, Cr W Polglase
AGAINST VOTE - Cr K Milne

46 [EO-CM] Council Vehicle Fleet

355

Cr D Holdom
Cr K Skinner

RESOLVED that the Council Vehicle Fleet report be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

47 [EO-CM] Playground Audit and Coroners Recommendations

356

Cr K Skinner
Cr W Polglase

RESOLVED that Council:

1. Implements the recommendations of the Echelon Playground Audit for Tweed Shire Council (Aug 2009) and vote funding of \$60,500 to complete the required works.
2. Isolating fencing be erected around the playground equipment at Russell Way Park, Banora Point at an estimated expenditure of \$7,000 and that the fencing be compliant with Australian Standard AS 1926.1 Swimming Pool Safety – Fencing for Swimming Pools.

3. The safety signage erected at Russell Way Park since the death of Travis James McCarron be reviewed with a view to installing signs at such locations within the park and of such design that would highlight the presence of the water hazard and the need for close supervision of small children.
4. Approves an additional 2009/10 budget allocation of \$67,500 for playgrounds.
5. Commences further recommendations as per "*Table 3A7 – Determining the most appropriate Risk Mitigation Measures for a Council Playground*" as per the Echelon Playground Audit starting from the highest Facility Risk Rating as budget permits.

The Motion was **Carried**

FOR VOTE - Unanimous

48 [EO-CM] Request for Closure of Public Walkways Monterey Avenue, Honeymyrtle Drive and Golf View Court, Banora Point

357

**Cr K Skinner
Cr P Youngblutt**

RESOLVED that Council:-

1. Advertises the proposed closure of the section of walkway behind numbers 62 to 72 Honeymyrtle Drive.
2. Writes to all adjoining property owners seeking comments on the proposed closure of the section of walkway behind numbers 62 to 72 Honeymyrtle Drive.
3. Requests regular night patrols of the area by the New South Wales Police.

The Motion was **Carried**

FOR VOTE - Unanimous

49 [EO-CM] Cobaki Lakes - Owners Consent by Council for Inclusion of Public Roads in Concept Plan

358

**Cr K Skinner
Cr P Youngblutt**

RESOLVED that Leda Manorstead Pty Limited be advised that:-

1. Council grants owner's consent for the inclusion of public roads in the Cobaki Lakes Concept Plan.
2. The above does not imply Council's consent to close the roads and transfer ownership to Leda Manorstead Pty Limited. This will be the subject of further negotiations between the parties.

The Motion was **Carried**

***FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr B Longland, Cr J van Lieshout, Cr W Polglase
AGAINST VOTE - Cr K Milne***

50 [EO-CM] Section 94 Contribution Plan Review

359

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council:-

1. Adopts the following Draft s94 Contribution Plans as a basis for exhibition and public discussion/consultation:
 - a) Draft Section 94 Plan No 1 - Banora Point West/Tweed Heads South Open Space Contribution (Version 10.1)
 - b) Draft Section 94 Plan No 2 - Banora Point West Drainage Scheme (Version 5.0)
 - c) Draft Section 94 Plan No 4 - Tweed Road Contribution Plan (Version 5.2)
 - d) Draft Section 94 Plan No 6 - Street Trees (Version 3.0.1)
 - e) Draft Section 94 Plan No 7 - West Kingscliff (Version 6)
 - f) Draft Section 94 Plan No 11 - Tweed Shire Library Facilities (Version 3)
 - g) Draft Section 94 Plan No 12 - Bus Shelters (Version 1.3)
 - h) Draft Section 94 Plan No 13 - Eviron Cemetery (Version 2)
 - i) Draft Section 94 Plan No 15 - Developer Contributions for Community Facilities (Version 5)

- j) Draft Section 94 Plan No 18 - Council Administration Offices and Technical Support Facilities (Version 2.2)
 - k) Draft Section 94 Plan No 19 - Casuarina Beach/Kings Forest (Version 4)
 - l) Draft Section 94 Plan No 21 - Terranora Village Estate - Open Space and Community Facilities (Version 2)
 - m) Draft Section 94 Plan No 22 - Cycleways (Version 3)
 - n) Draft Section 94 Plan No 25 - SALT Open Space and Associated Car Parking (Version 3)
 - o) Draft Section 94 Plan No 26 - Shirewide Open Space (Version 4)
2. Publicly exhibits the above Draft s94 Contribution Plans in accordance with Clause 28 of the Environmental Planning and Assessment Regulation 2000.

The Motion was **Carried**

FOR VOTE - Unanimous

51 [EO-CM] Kings Forest Development Code

DECLARATION OF INTEREST

Cr W Polglase wishes to declare a non significant, non-pecuniary interest in Items 51 in accordance with the Code of Conduct.

The declaration is as a result of a previous indirect association with the applicant.

DECLARATION OF INTEREST

Cr P Youngblutt wishes to declare a non significant, non-pecuniary interest in Items 51 in accordance with the Code of Conduct.

The declaration is as a result of a previous indirect association with the applicant.

360

Cr D Holdom
Cr J van Lieshout

RESOLVED that the NSW Department of Planning be:-

1. Advised that Council does not accept the Draft Kings Forest Development Code in its present form.

2. Requested to:-
 - Require the Draft Code to be amended to adopt Council DCPs and associated Design and Construction Specifications as a default, but, as necessary for specific Kings Forest issues, designate specific areas where the developer needs to depart from or augment Council's controls.
 - Require proposed departures from Council Codes to be fully justified by a formal departures report to accompany the amended draft code.
 - Require the amended code and departures report to be put on public exhibition for a minimum of 28 days.
 - Meaningfully consult with Council prior to determining the Code.

3. Advised that unless public realm infrastructure for Kings Forest subdivisions meets Council standards, then the subdivisions should be Community Title system, with the area body corporate taking control and financial responsibility for maintenance in perpetuity of subdivision infrastructure (similar to the systems proposed at "Nightcap Village" and "The Rise").

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

52 [TCS-CM] Conduct Review Panel - Complaint - Councillor Joan van Lieshout

361

Cr D Holdom

Cr K Skinner

RESOLVED that Council receives and notes the report and findings of the Conduct Review Committee into complaints against Councillor Joan van Lieshout and determines any appropriate actions.

The Motion was **Carried**

FOR VOTE - Unanimous

53 [TCS-CM] Code of Conduct Review - Councillor Katie Milne

362

**Cr K Skinner
Cr P Youngblutt**

RESOLVED that Council:-

1. Receives and notes the report and findings of the Sole Reviewer into complaints against Councillor Katie Milne and determines any appropriate actions.
2. Considers including the recommendation regarding the Media Policy and Code of Conduct into the proposed Code of Conduct Workshop.

The Motion was **Carried**

**FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr B Longland, Cr J van Lieshout, Cr W Polglase
AGAINST VOTE - Cr K Milne**

54 [TCS-CM] Councillor Sub-Committee Representation

363

**Cr D Holdom
Cr K Skinner**

RESOLVED that Council:

1. Appoints the following Councillors as committee representatives of the following sub-committees:

<i>Aboriginal Advisory Committee</i>	<i>Cr D Holdom Alternate: Cr K Milne</i>
<i>Arts Northern Rivers Board</i>	<i>Cr W Polglase</i>
<i>Audit Committee Holdom</i>	<i>Cr B Longland, Cr D</i>
<i>Banora Point Community Advisory Centre</i>	<i>Cr K Milne Alternate: Cr D Holdom</i>
<i>Beach Safety Liaison Committee Skinner</i>	<i>Cr D Holdom, Cr K</i>

<i>Community Cultural Development Advisory</i>	<i>Cr B Longland Alternate: Cr K Milne</i>
<i>Disability Access Advisory Committee Youngblutt</i>	<i>Crs D Holdom, P</i>
<i>Flood Plain Management Committee</i>	<i>Cr K Skinner Alternate: Cr D Holdom</i>
<i>General Manager Review Committee</i>	<i>Cr W Polglase, Cr P Youngblutt, Cr B Longland, Cr D Holdom, Cr K Skinner, Cr K Milne, Cr J van Lieshout</i>
<i>Local Traffic Committee</i>	<i>Cr B Longland Alternate: Cr K Skinner</i>
<i>NOROC</i>	<i>Mayor Alternate: Deputy Mayor</i>
<i>Richmond-Tweed Regional Library</i>	<i>Cr K Milne, Cr D Holdom Alternate: Cr K Skinner</i>
<i>Rural Fire Service Liaison Committee Youngblutt</i>	<i>Crs W Polglase, P</i>
<i>Sports Advisory Committee</i>	<i>Cr K Skinner Alternate: Cr D Holdom</i>
<i>Tweed Bush Fire Management Cttee</i>	<i>Cr K Milne Alternate: Cr J van Lieshout</i>
<i>Tweed Coastal Committee</i>	<i>Crs B Longland, K Milne Alternate: Cr J van Lieshout</i>
<i>Tweed Economic Development Corp Skinner</i>	<i>Crs J van Lieshout, K Skinner</i>
<i>Tweed River Committee</i>	<i>Crs K Milne, D Holdom</i>
<i>Tweed River Regional Art Gallery</i>	<i>Crs J van Lieshout, W Polglase</i>
<i>Tweed River Regional Museum Holdom</i>	<i>Crs B Longland, D Holdom</i>

*Tweed Shire Council Mayor's Disaster
Relief Fund*

Mayor, Deputy Mayor

*Tweed Tourism
Skinner*

Crs J van Lieshout, K

The Motion was **Carried**

FOR VOTE - Unanimous

55 [TCS-CM] 2008/09 Carry Over Works

364

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council:-

1. Adopts the 2008/09 Carry Over Works.
2. Votes the expenditure and income, as detailed within the report, for the year ending 30 June 2010.

The Motion was **Carried**

FOR VOTE - Unanimous

56 [TCS-CM] 2008/2009 Statutory Financial Reports / Audit Report

365

**Cr P Youngblutt
Cr K Skinner**

RESOLVED that the statement as to Council's opinion on the general purpose financial report as required by Section 413 (2)(c) of the Local Government Act and the Special Purpose Financial Reports under the Local Government Code of Accounting Practice and Financial Reporting be executed.

The Motion was **Carried**

FOR VOTE - Unanimous

57 [TCS-CM] Monthly Investment Report for Period Ending 30 September 2009

366

**Cr K Skinner
Cr B Longland**

RESOLVED that in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at 30 September 2009 totalling \$134,281,612.30 be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

58 [TCS-CM] Pecuniary Interest Returns 2008/2009

367

**Cr K Skinner
Cr J van Lieshout**

RESOLVED that the Pecuniary Interest Returns for the period 1 July 2008 to 30 June 2009, as tabled, be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

59 [SUB-SAC] Minutes of the Sports Advisory Committee Meeting held Monday 7 September 2009

368

**Cr D Holdom
Cr K Milne**

RESOLVED that the:-

1. Minutes of the Minutes of the Sports Advisory Committee Meeting held Monday 7 September 2009 be received and noted; and
2. The Executive Management Team's recommendations be adopted as follows

1. Lachlan Sherrington - Good Sports

That the Committee's recommendation being:

That:-

1. *That the Committee recommends that Council enter into a community partnership agreement with the Australian Drug Foundation for the Good Sports Program. The annual fee is to be funded from the sportsfields assets reserve fund.*
2. *That Council considers incentives for clubs that participate in the program through rebates of the seasonal licence fees.*

be amended to read:-

"That Council enter into a community partnership agreement with the Australian Drug Foundation for the Good Sports Program. The annual fee is to be funded from the sportsfields assets reserve fund."

The Motion was **Carried**

FOR VOTE - Unanimous

60 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 24 September 2009

369

**Cr B Longland
Cr W Polglase**

RESOLVED that the:-

1. Minutes of the Local Traffic Committee Meeting held Thursday 24 September 2009 be received and noted; and
2. The Executive Management Team's recommendations be adopted as follows

A2 [LTC] NSW Fire Brigade Fire Station - Marine Parade, Kingscliff

As per the Committee's recommendation being:

"That the existing "No Stopping" signs located on Marine Parade (west side) between Kingscliff Lane, Kingscliff and the Fire Station entrance be relocated and the arrow amended, as necessary, to enable parking outside the Fire Station from the Fire Station driveway to the adjacent Street."

B5 [LTC] Kyogle Road, Uki

That Council officers consider providing a low profile pedestrian crossing at the same location of the existing pedestrian crossing subject to discussion with the Roads and Traffic Authority of NSW.

The Motion was **Carried**

FOR VOTE - Unanimous

61 [SUB-AAC] Minutes of the Aboriginal Advisory Committee Meeting held Friday 2 October 2009

370

**Cr D Holdom
Cr K Milne**

RESOLVED that the:-

1. Minutes of the Aboriginal Advisory Committee meeting held Friday 2 October 2009 be received and noted; and
2. The Executive Management Team's recommendations be adopted as follows

BUSINESS ARISING:

Item from Meeting held Friday 2 November 2007

BA 1 Aboriginal Advisory Committee

As per the Committee's recommendation being:-

"That Council amends the Aboriginal Advisory Committee's Terms of Reference and Operational Guidelines to allow an additional Committee member from Bugalwena Aboriginal Health Services."

GENERAL BUSINESS:

GB 4 Kings Forest Estate Development

As per the Committee's recommendation being:-

"That Council advises the developers of Kings Forest Estate project to enter into a partnership agreement with the local Aboriginal Community."

GB 5 The Rise Estate Development

As per the Committee's recommendation being:-

"That Council advises the developers of The Rise Estate project to enter into a partnership agreement with the local Aboriginal Community."

The Motion was **Carried**

FOR VOTE - Unanimous

62 [SUBCOM] Minutes of Sub-Committees Not Requiring Council Decision as at 20 October 2009

The Minutes of Sub-Committees not requiring a Council decision were received and noted.

ORDERS OF THE DAY

63 [NOR-CM] [PR-CM] Development Application DA08/1170 for a Two (2) Lot Subdivision at Lot 1 DP1073137, Nos 19 and 43 Turners Road, Wardrop Valley

371

**Cr D Holdom
Cr B Longland**

PROPOSED that Council resolution at Minute No. 241 in relation to Item 11 of the Meeting held on 15 September 2009 being:

... that Development Application DA08/1170 for a two (2) lot subdivision at Lot 1 DP 1073137, No. 19 & 43 Turners Road, Wardrop Valley be approved, with the following conditions:-

GENERAL

1. *The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 2537-2 Revision A prepared by Chapman Surveys Pty Ltd and dated 7/8/08, except where varied by the conditions of this consent.*

[GEN0005]

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

[GEN0125]

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

[GEN0135]

4. *The development shall not result in damage to or loss of any threatened or endangered flora.*

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. *Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,552).*

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

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

[PCC0275]

6. *In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.*

[PCC0285]

7. *A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be prepared by an RTA accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.*

[PCC0865]

8. *Prior to the issue of a Construction Certificate the following detail in accordance with Councils Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.*
- (a) copies of compliance certificates relied upon*
- (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:*
- earthworks*
 - roadworks, including*
 - (a) The upgrade of Turners Road from its intersection with Smarts Road, to the existing driveway access servicing proposed Lot 2, to provide a 6m formation with full width gravel pavement, minimum 150mm roadbase depth in accordance with Council's DCP – Section A5 – Subdivision Manual.*
 - (b) Required road drainage and batters.*
 - access, including*
 - (c) Provision of a vehicular access providing a minimum 150mm depth roadbase from Turners Road to the property boundary of both proposed Lot 1 & 2.*
 - stormwater drainage*
 - sedimentation and erosion management plans*
 - location of all service conduits (water, sewer, Country Energy and Telstra)*

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

[PCC0985]

9. *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]

10. *The Construction Certificate Application shall include a detailed Stormwater Management Plan (SWMP) prepared in accordance with Councils Development Design Specification D7 - Stormwater Quality.*

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

11. *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]

12. *Civil work in accordance with a development consent must not be commenced until:-*

- (a) *a construction certificate for the civil work has been issued in accordance with Councils Development Design and Construction Specification C101 by:*

- (i) *the consent authority, or*
(ii) *an accredited certifier, and*

- (b) *the person having the benefit of the development consent:*

- (i) *has appointed a principal certifying authority,*
(ii) *has appointed a Subdivision Works Accredited Certifier (SWAC) in accordance with Tweed Shire Council's Development Control Plan, Part A5 - Subdivision Manual, Appendix C, with accreditation in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the SWAC shall possess accreditation in the following categories:*

C4: Accredited Certifier – Stormwater management facilities construction compliance

C6: Accredited Certifier – Subdivision road and drainage construction compliance

- (iii) *has notified the consent authority and the council (if the council is not the consent authority) of the appointment,*

- (iv) *a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and*

- (c) *the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the civil work.*

[PCW0815]

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

[PCW0835]

14. *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.*

[PCW0985]

DURING CONSTRUCTION

15. *All proposed works are to be carried out in accordance with the conditions of development consent, approved management plans, approved Construction Certificate, drawings and specifications.*

[DUR0005]

16. *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]

17. *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]

18. *Access to the property is to be provided in accordance with Chapter 4.1.3 (2) of Planning for Bushfire Protection 2006, except where varied by these conditions.*

[DUR0585]

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

[DUR0815]

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

[DUR0985]

21. *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.*

[DUR0995]

22. *Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works*

[DUR1795]

23. *The proponent must not undertake any work within the public road reserve without giving Council's Engineering & Operations Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.*

[DUR1845]

24. *Any damage caused to public infrastructure during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate.*

[DUR1875]

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

[DUR2015]

26. *Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.*

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

USE

27. *A roof catchment water supply source shall be provided for domestic purposes where a Council reticulated supply is unavailable. Any domestic water supply roof collection system is to be fitted with a first flush device. Minimum storage tank capacity shall reflect the dry seasonal periods experienced with the locality and shall be separate to any fire fighting requirements stipulated by the NSW Rural Fire Services. Installation, water collection, and maintenance of rainwater tanks used for drinking purposes must comply with NSW Health requirements.*

[USENS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

[PSC0005]

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

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

[PSC0215]

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

[PSC0725]

31. *Prior to the issue of a Subdivision Certificate, Works as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council Development Control Plan A5 - Subdivisions Manual and Councils Development Design and Construction Specification, D13 - Engineering Plans.*

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

- (a) *the constructed Turners Road pavement and associated drainage and batters are contained within the nominated road reserve.*
- (b) *the plans accurately reflect the Work as Executed.*

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

[PSC0735]

32. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.

[PSC0825]

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 must include the following:

- Future property owners shall be advised that proposed Lots 1 and 2 do not have a dwelling entitlement and rely on existing use rights in accordance with the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000.

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.

Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the Community Land Development Act, Strata Titles Act, Conveyancing Act, or other applicable legislation.

[PSC0835]

34. Submit to Council's property officer an appropriate plan indicating the rural address number to both new and existing lots for approval. Prior to the issue of a Subdivision Certificate, each lot shall have its' rural address number displayed in accordance with Council's "Rural Addressing Policy".

[PSC0845]

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

[PSC0855]

36. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Council within three months of registration of the Subdivision Certificate in accordance with the Survey Practices Regulation.

[PSC0865]

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

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.*
- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 7.6 and Councils Application for Subdivision Certificate including the attached notes.*

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

[PSC0885]

38. *Prior to the application for a **Subdivision Certificate**, Council will undertake an inspection of the completed roadworks and once satisfied that all conditions of consent have been complied with, will issue a Compliance Certificate or the following:-*

- (a) Compliance Certificate - Roads*
- (b) Compliance Certificate – Drainage*

Note:

- 1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 – Subdivisions Manual and Councils Development Design and Construction Specifications.*
- 2. The fee associated with Council's inspections is subject to Council's Fees and Charges, current at the time of payment.*

[PSC0915]

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

[PSC0925]

40. *Prior to the issue of a Subdivision Certificate a properly dimensioned plan shall be submitted to Council for approval, showing the position of fences, structures (including the existing dwelling on proposed Lot 1) and the road formation, in relation to the proposed boundaries along Turners Road.*

- 1. Any encroaching boundary fence is to be removed/relocated to the correct alignment.*

2. *Any encroaching part of the existing dwelling on proposed Lot 1 encroaching into the Turners Road reserve shall be removed.*

[PSC0945]

41. *Prior to the issue of a subdivision certificate the applicant is required to lodge an application to operate an onsite sewerage management system for each individual dwelling under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issues with an approval.*

[PSCNS01]

42. *Where the road formation of Turners Road encroaches into private property, the submitted Subdivision Certificate must incorporate appropriate road widening within the subject allotment (generally taken to the existing fence line) to encompass such encroachments.*

Any such road widening shall be dedicated to Council, at no cost to Council.

[PSCNS02]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

1. *At the commencement of subdivision the property around the existing dwellings to a distance of 20 metres shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of Planning for Bush Fire Protection 2006 and the NSW Rural Fire Service's document 'Standards for asset protection zones.'*

be rescinded.

The Rescission Motion was **Lost**

FOR VOTE - Cr D Holdom, Cr B Longland, Cr K Milne

AGAINST VOTE - Cr P Youngblutt, Cr K Skinner, Cr J van Lieshout, Cr W Polglase

**64 [NOM] Development Application DA08/1170 Lot 1 DP 1073137
Turners Road, Wardrop Valley**

This item was not dealt with as the preceding item - Notice of Rescission - was lost.

65 [NOM] "Code of Conduct" Training

372

**Cr J van Lieshout
Cr B Longland**

RESOLVED that at the upcoming "Code of Conduct" training for Councillors all areas which are deemed as "Conflict of Interest" and "Pecuniary Interest" relevant to all Board Positions held by Councillors on behalf of Council and their voting rights in respect of those positions - be clarified.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

66 [NOM] Cross Promotion Tourism Opportunities

373

**Cr J van Lieshout
Cr K Skinner**

PROPOSED that in view of the future opportunities for valuable Tourism in the Tweed and Northern Rivers Region and following the recent Repco Rally feedback of intended revisits to the area – it would be astute for Council to consider a "sister city" to identify valuable relationships which would generate cross promotional Tourism opportunities. This has been discussed at recent Tweed Tourism Board meetings and therefore it is requested that Council approve Councillor van Lieshout to investigate opportunities with relevant councils in New Zealand in Christchurch and Auckland during an upcoming personal visit at end November at no cost to Council with a report to Council on the viability of that proposal for the December meeting.

The Motion was **Lost**

FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr J van Lieshout

AGAINST VOTE - Cr D Holdom, Cr B Longland, Cr K Milne, Cr W Polglase

67 [NOM] Koala Plan of Management

374

**Cr J van Lieshout
Cr K Milne**

RESOLVED that Council identifies the need to prioritise the feasibility study currently in process for costs involved for the proposed “Koala Plan of Management for Tweed Shire so that all developments with identified “Koala Habitat Sites” be subject to that Plan and that the report be included in the December Council Meeting.

The Motion was **Carried**

FOR VOTE - Cr K Skinner, Cr B Longland, Cr K Milne, Cr J van Lieshout, Cr W Polglase

AGAINST VOTE - Cr P Youngblutt, Cr D Holdom

68 [NOM] Casino to Murwillumbah Rail Corridor

375

**Cr B Longland
Cr W Polglase**

RESOLVED that:-

1. Council urgently conveys to the New South Wales Premier our serious concern that the Government's Transport Administration Amendment Bill (Rail Trails Bill) provides for the potential sale of the Casino to Murwillumbah rail corridor, and
2. Council seeks an assurance from the Government that this rail corridor will remain in public ownership as part of long term public transport/public recreation planning for this part of New South Wales.

The Motion was **Carried**

FOR VOTE - Unanimous

69 [NOM] Koala Plan of Management [KM]

376

**Cr K Milne
Cr B Longland**

PROPOSED that Council commits to a Koala Plan of Management regardless of whether the current funding application is successful and to initiate this process forthwith.

This Plan to be carried out in two stages as follows:

Stage 1 of the project to be the coastal areas, east of the Pacific Highway

- a) This stage of the Plan to be implemented first as a matter of urgency.
- b) A working group of qualified experts, headed by Council's biodiversity officer Dr Mark Kingston, to be established as a matter of urgency to determine the processes and financial commitment required.

Stage 2 of the project to be the areas west of the Pacific Highway
The processes required for this stage to be determined by the working group.

The Motion was **Lost**

**FOR VOTE - Cr B Longland, Cr K Milne
AGAINST VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr J van
Lieshout, Cr W Polglase**

70 [NOM] Carbon Emissions

NOTICE OF MOTION - K Milne:

377

**Cr K Milne
Cr B Longland**

PROPOSED that Council holds a series of public forums to determine new carbon reduction targets for Council and what is desired for the wider Shire area.

The Motion was **Lost**

**FOR VOTE - Cr B Longland, Cr K Milne
AGAINST VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr J van
Lieshout, Cr W Polglase**

71 [NOM] Positive Development

NOTICE OF MOTION - K Milne:

378

**Cr K Milne
Cr B Longland**

RESOLVED that Council:-

1. Invites Professor Dr Janis Birkeland to provide Council with a Positive Development workshop.
2. Makes a request to the Australian Institute of Sustainability Initiatives (ANSI) for information on the processes required to be nominated as one of the bioregional project centres.
3. Requests State and Federal Governments for assistance in implementing positive development initiatives especially in relation to current developments proposed.
4. Based on information provided to Council on Positive Development initiatives, seeks to encourage their consideration for future development in the Tweed Shire.
5. Seeks to incorporate, by cooperative partnership agreements, education, research and development facilities based on conservation and sustainability initiatives into current and future developments proposals.

The Motion was **Carried**

**FOR VOTE - Cr K Skinner, Cr B Longland, Cr K Milne, Cr J van Lieshout
AGAINST VOTE - Cr P Youngblutt, Cr D Holdom, Cr W Polglase**

72 [NOM] Biodiversity, Food Security and Carbon Reduction

The motion lapsed as there was no seconder.

73 [NOM] Carbon Reduction - Red Meat and Dairy

The motion lapsed as there was no seconder.

74 [NOM] Speed

The motion lapsed as there was no seconder.

75 [NOM] Plastic Bags

NOTICE OF MOTION - K Milne:

379

**Cr K Milne
Cr B Longland**

RESOLVED that Council initiates discussion on the possibilities for the elimination of plastic bags from the Shire, including an approach to the Business Chambers to seek their involvement in this discussion.

The Motion was **Carried**

FOR VOTE - Cr D Holdom, Cr K Skinner, Cr B Longland, Cr K Milne, Cr J van Lieshout, Cr W Polglase

AGAINST VOTE - Cr P Youngblutt

76 [NOM] Mayoral Vote

NOTICE OF MOTION - K Milne:

380

**Cr K Milne
Cr B Longland**

PROPOSED that Council instigate the process to consider the election of mayor by popular vote.

The Motion was **Lost**

FOR VOTE - Cr B Longland, Cr K Milne, Cr J van Lieshout

AGAINST VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr W Polglase

QUESTION TIME

77 [QT] Statements Made on ABC North Coast Public Radio by Cr P Youngblutt

Cr B Longland

As an independent councillor with no political party affiliations, I ask Cr Youngblutt to inform the Tweed community of his evidence to substantiate statements made on ABC North Coast public radio on 14 September 2009 that Cr Longland is the "Labour Councillor".

In the absence of such evidence, can Cr Youngblutt inform the Chamber of his intention to correct the public record in order that my reputation as an independent, community-based councillor can be restored.

The Mayor advised Cr Longland that Cr Youngblutt has reserved the right to not answer the question. (*Section 3.26.7 of the Code of Meeting Practice applies*).

78 [QT] Carbon Emissions

Cr K Milne

Asked can the Director Community and Natural Resources provide an update on whether Council is meeting their carbon targets.

The Director Community and Natural Resources responded that Council adopted targets for itself and the community in 2003, based on 1996 emissions. The 2010 targets sought to reduce Council's emissions by 20% below the 1996 emissions, and the community emissions by 20% per capita below. In 2003 council emissions were quantified which indicated that Council was approximately 56% above 1996 emissions. In 2001 community emissions were quantified and indicated that they were also above the target. Emissions have not been quantified since 2003/2001 respectively but it is assumed that indications would show both council and community would be well above target emissions as are many of other growth councils. Council is looking to quantify emissions on a more regular basis but this is not an easy process as it is quite difficult to determine fuel and energy emissions. Council hopes to have 2009 emissions quantified in the next 12 months.

79 [QT] Rally Review

Cr K Milne

Asked:-

1. Can the General Manager provide details of the Rally review?
2. Can the General Manager outline how much economic benefit the Tweed Shire was expected to receive?
3. Can the General Manager confirm that the unidentified bird feathers found at the Toonumbar route could not have been a Black Breasted Button Quail or other threatened bird species.

The General Manager responded with regard to points 1 and 2 that a written response on the rally review had been provided to all Councillors which indicated that the economic benefit was between \$15M to \$20M. An official review was being undertaken by Homebush Racing Authority on behalf of government and consultants were currently being engaged to undertake the review which should commence prior to the indicated date of 31 December 2009.

With regard to point 3, the General Manager tabled advice from Dr Stephen Phillips, Biolink Pty Ltd-Ecological Consultants which advised as follows:

"I am writing to clarify the matter of "unidentified feathers" from the Toonumbar/Repco special stage that are referred to on page 7 of our post-event report. In my opinion:

- a) the feathers were unlikely to have come from a threatened bird species because they were found in an area of open pastureland/farmland, and
- b) there is certainly no possibility that these feathers could have come from a Black-breasted Button Quail *Tumia melanogaster* (or any other *Tumia* spp) because (i) they were the wrong colour (pale grey with white bases), and (ii) there was no habitat for this particular species anywhere in the vicinity.

It should also be noted that we were unable to find a carcass to go with the few feathers that were observed so it is also possible that the bird survived any impact and flew away. ..."

80 [QT] Code of Conduct Reviews

Cr K Milne

Asked the General Manager to provide an update on any Code of Conduct reviews in process.

The General Manager responded that written advice had been provided on this matter, advising that it is inappropriate to provide such advice. Code of Conduct matters are tabled as items in open Council.

81 [QT] Code of Meeting Practice Policy-Points 5, 6 and 12

Cr D Holdom

With regard to Council's Code of Meeting Practice at point 5, point 6 and point 12 all on page 10 of the policy:-

Would the General Manager investigate and report back to Council with regard to the following; all signs bought to Council by members of the public, being left neatly outside the chamber in a designated area when a formal meeting of Council is convened, a ban on all mobile phones being left on by anyone in the chamber at either a formal meeting and/or community access and/or workshops, no electronic recording devices bought into the chamber by members of the public - including video by way of mobile phones and applicable signage informing the general public of same placed inside and outside the chamber?

The General Manager responded that these matters can be addressed by amending the Code of Meeting Practice policy.

COMMITTEE OF THE WHOLE

381

Cr D Holdom
Cr P Youngblutt

RESOLVED that Council resolves itself into a Confidential Committee of the Whole in accordance with Section 10A(2) of the Local Government Act 1993 (as amended) and that the press and public be excluded 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 reasons of the confidential nature of the business to be transacted

The Motion was **Carried**

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:-

MAYORAL MINUTE IN COMMITTEE

1 [MM] General Manager Review Committee

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)

This matter was dealt with later in the meeting at Minute No 56.

REPORTS THROUGH GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

2 [EO-CM] Supply of Fill to Byron Regional Sport and Cultural Complex

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 53

That Council set prices for supply of bulk fill in accordance with the conclusions of this report

The Motion was **Carried**

FOR VOTE - Unanimous

3 [EO-CM] Land Acquisition for Road and Compensation Purposes - Cudgen Road, Duranbah

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 54

That:-

1. Council approves the acquisition of Lots 1-4 in DP 1142639 with the land owners agreement for public road under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act, 1993 and the making of the necessary application to the Minister and/or Governor; and
2. Council approves the acquisition of Lot 5 in DP 1142639 by way of surplus road closure without the land owners agreement for public road under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act, 1993 and the making of the necessary application to the Minister and/or Governor; and
3. Council approves the acquisition of Lots 6 to 9 in DP 1142639 for compensation purposes under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act 1993 and the making of the necessary application to the Minister and/or Governor; and
4. Lots 1 to 5 in DP 1142639 be dedicated as road following gazettal of the acquisition; and
5. All necessary documentation be executed under the Common Seal of Council.

The Motion was **Carried**

FOR VOTE - Unanimous

4 [EO-CM] Park Naming

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 55

That Council call for comment regarding the naming of the park on Overall Drive opposite Buckingham Drive 'Peter Krekelberg Park' in accordance with Council's park naming guidelines.

The Motion was **Carried**

FOR VOTE - Unanimous

[MM] General Manager Review Committee

Due to the confidential nature of this matter, all staff vacated the Council Chamber during consideration of this matter.

C 56

That the performance review of the General Manager for the period May 2008 to May 2009 be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

382

**Cr D Holdom
Cr P Youngblutt**

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

The Motion was **Carried**

FOR VOTE - Unanimous

There being no further business the Meeting terminated at 10.13pm.

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Minutes of Meeting Confirmed by Council

at Meeting held

Chairman