

**Mayor:** Cr K Skinner

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



**TWEED**  
SHIRE COUNCIL

# Minutes

## **Ordinary Council Meeting Tuesday 21 September 2010**

held at Murwillumbah Cultural & Civic Centre  
commencing at 3.30pm

### **COUNCIL'S CHARTER**

Tweed Shire Council's charter comprises a set of principles that are to guide Council in the carrying out of its functions, in accordance with Section 8 of the Local Government Act, 1993.

Tweed Shire Council has the following charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;
- to exercise community leadership;
- to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism;
- to promote and to provide and plan for the needs of children;
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development;
- to have regard to the long term and cumulative effects of its decisions;
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible;
- to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government;
- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants;
- to keep the local community and the State government (and through it, the wider community) informed about its activities;
- to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected;
- to be a responsible employer.

The Meeting commenced at 3.50pm.

## **IN ATTENDANCE**

Cr K Skinner (Mayor), Cr B Longland (Deputy Mayor), Cr D Holdom, Cr K Milne, Cr W Polglase, Cr P Youngblutt, Cr J 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 Kerrie McConnell (Minutes Secretary).

## **CONFIRMATION OF MINUTES**

- 1 Minutes of the Ordinary and Confidential Council Meeting held Tuesday 17 August 2010 and Minutes of the Extraordinary Council Meetings held Monday 30 August 2010 and Tuesday 14 September 2010**

594

**Cr D Holdom  
Cr K Milne**

**RESOLVED** that the Minutes of the Ordinary and Confidential Council Meetings held Tuesday 17 August 2010, and the Minutes of the Extraordinary Council Meetings held Monday 30 August 2010 and Tuesday 14 September 2010 be adopted as a true and accurate record of proceedings of those meetings.

The Motion was **Carried**

***FOR VOTE - Unanimous***

## **APOLOGIES**

Nil.

## **DISCLOSURE OF INTEREST**

**Cr D Holdom** declared a significant non-pecuniary interest under Section 7.16(a) in accordance with the Council's Code of Conduct in relation to Item 4 [GM-CM] 2011 and 2012 Surf Life Saving NSW Championships at Kingscliff contained in the Ordinary Agenda.

The nature of the interest is that Cr D Holdom's spouse is the President of Old Boys and Vice President of the Cudgen Headland Surf Life Saving Club.

**Cr D Holdom** declared a declared a significant non-pecuniary interest under Section 7.16(a) in accordance with the Council's Code of Conduct in relation to Item 38 [EO-CM] Tweed Regional Aquatic Centre Lease contained in the Ordinary Agenda.

The nature of the interest is that Cr D Holdom's spouse is employed as a Pool Attendant at the Tweed Regional Aquatic Centre.

**Cr J van Lieshout** declared a significant non-pecuniary interest under Section 7.16(a) in accordance with the Council's Code of Conduct in relation to Item 21 [CNR-CM] Tender Report -Panel of Providers for Bush Regeneration and Ecological Planning. The nature of the interest is that Cr J van Lieshout has a business relationship with one of the tenderers.

**595 COUNCIL DECISION:**

**Cr D Holdom**  
**Cr P Youngblutt**

**RESOLVED** that Standing Orders be suspended to draw the 2010/2011 Rates Incentive Scheme prize.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**2010/2011 RATES INCENTIVE SCHEME PRIZE**

Council's Mayor, Cr K Skinner announced the following prize winners:

- 1<sup>st</sup> prize - \$3,000 sustainable home package - Mr Keith and Mrs Elaine Hambridge
- 2<sup>nd</sup> prize - \$2,000 sustainable home package - Mr Stephen and Mrs Vasantha Howard
- 3<sup>rd</sup> prize - \$1,000 sustainable home package – Mr Paul Connell

**596**

**Cr D Holdom**  
**Cr P Youngblutt**

**RESOLVED** that Standing Orders be resumed.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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

Nil.

## SCHEDULE OF OUTSTANDING RESOLUTIONS

### 2 Schedule of Outstanding Resolutions

597

Cr D Holdom  
Cr P Youngblutt

**RESOLVED** that the Schedule of Outstanding Resolutions report be received and noted.

The Motion was **Carried**

***FOR VOTE - Unanimous***

## MAYORAL MINUTE

### 3 [MM] Mayoral Minute for the period 06 August to 05 September 2010

598

Cr K Milne  
Cr B Longland

**PROPOSED** that Cr K Skinner be authorised to attend the Greenhouse 2011, The Science of Climate Change Conference in Cairns from 4 to 8 April 2011.

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***

599

Cr K Milne  
Cr B Longland

**RESOLVED** that Cr K Skinner be authorised to attend the 19<sup>th</sup> NSW Coastal Conference in Batemans Bay, NSW from 10 to 12 November 2010.

The Motion was **Carried**

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

600

Cr K Milne  
Cr B Longland

**PROPOSED** that Cr K Milne be authorised to attend the National Conference of the Stormwater Industry Association in Sydney from 8 to 12 November 2010.

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**

601

Cr K Skinner

**RESOLVED** that the Mayoral Minute for the period 06 August to 05 September 2010 be received and noted, with the following amendments:

**INVITATIONS:**

**Attended by the Mayor**

- 15 Aug 2010 - Sandakhan Memorial Walkway Opening by RSL Murwillumbah - Cenotaph, Tumbulgum Rd, Murwillumbah (also attended by Cr D Holdom)

The Motion was **Carried**

**FOR VOTE - Unanimous**

**ORDINARY ITEMS FOR CONSIDERATION**

**REPORTS THROUGH THE GENERAL MANAGER**

## REPORTS FROM THE GENERAL MANAGER

### 4 [GM-CM] 2011 and 2012 Surf Life Saving NSW Championships at Kingscliff

#### DECLARATION OF INTEREST

**Cr D Holdom** declared an Interest in this item, left the Chamber at 04.03PM and took no part in the discussion or voting. The nature of the interest is that Cr D Holdom's spouse is the President of Old Boys and Vice President of the Cudgen Headland Surf Life Saving Club.

602

**Cr W Polglase**  
**Cr P Youngblutt**

**RESOLVED** that Council endorses:

1. Execution of the Agreement between Surf Life Saving Australia NSW and Tweed Shire Council to host the 2011 and 2012 Surf Life Saving NSW Championships.
2. ATTACHMENT 1 as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains:-
  - (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 - Cr P Youngblutt, Cr K Skinner, Cr B Longland, Cr J van Lieshout, Cr W Polglase**

**AGAINST VOTE - Cr K Milne**

**ABSENT. DID NOT VOTE - Cr D Holdom**

**Cr D Holdom returned from temporary absence at 04:07 PM**

### 5 [GM-CM] Reporting of Code of Conduct Complaints

603

**Cr B Longland**  
**Cr D Holdom**

**RESOLVED** that Council receives and notes the Code of Conduct Complaint Report for the period 1 July 2009 to 30 June 2010.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**6 [GM-CM] Tweed Kenya Mentoring Program - Ochilo Safe Water Project, Final Report**

**604**

**Cr D Holdom  
Cr J van Lieshout**

**RESOLVED** that Council receives and notes the report on the Tweed Kenya Mentoring Program's Safe Water 3 Project at Ochilo.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**7 [GM-CM] Draft Community Engagement Strategy**

**605**

**Cr D Holdom  
Cr J van Lieshout**

**PROPOSED** that Council:

1. Adopts the overarching Community Engagement Strategy Version 1.0.
2. Deletes the Communications Policy Version 1.1.

**606**

**AMENDMENT**

**Cr K Milne  
Cr B Longland**

**RESOLVED** that Council:

1. Adopts the overarching Community Engagement Strategy Version 1.0.
2. Deletes the Communications Policy Version 1.1.
3. Reviews the Community Engagement Strategy Version 1.0 12 months after implementation of the Citizen's Panel, including the conducting of a workshop.



The Amendment 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**

The Amendment on becoming the Motion was **Carried** - (Minute No 606 refers)

**FOR VOTE - Unanimous**

**8 [GM-CM] Tweed Tourism Quarterly Performance Report - April to June 2010**

**607**

**Cr D Holdom**

**Cr J van Lieshout**

**RESOLVED** that Council endorses:

1. The Tweed Tourism Quarterly Performance Report for the quarter April to June 2010.
2. ATTACHMENT 1 as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains:-
  - (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**

**9 [GM-CM] Tweed Economic Development Corporation (TEDC) Quarterly Financial Report - April to June 2010**

**608**

**Cr D Holdom**

**Cr J van Lieshout**

**RESOLVED** that Council endorses:

1. The quarterly financial report from Tweed Economic Development Corporation from April to June 2010.
2. ATTACHMENT 1 as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains:-

- (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***

**10 [GM-CM] Tweed Economic Development Corporation (TEDC) - Council Appointed Board Members**

**609**

**Cr J van Lieshout  
Cr K Milne**

**RESOLVED** that Council:

1. Removes all Appointed Directors from the Tweed Economic Development Corporation (TEDC) Board.
2. Advises the Tweed Economic Development Corporation (TEDC) that it will no longer appoint Councillors or staff to the positions of Appointed Directors.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**REPORTS FROM THE DIRECTOR PLANNING AND REGULATION**

**11 [PR-CM] Development Application DA10/0255 for a 19 Lot Subdivision Comprising Four (4) Stages at Lot 56 DP 1030322, Collins Lane, Casuarina**

**610**

**Cr D Holdom  
Cr W Polglase**

**RESOLVED** that Development Application DA10/0255 for a 19 lot subdivision comprising of four (4) stages at Lot 56 DP 1030322, Collins Lane, Casuarina be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects, amended details dated 9 June 2010, and the following plans:

- COLLINSLNE\_SUB\_01 (Rev 01) - Stage 1 (Sheet 1 of 5), prepared by Planit Consulting Pty Ltd and dated June 2010;
- COLLINSLNE\_SUB\_02 (Rev 01) - Stage 2 (Sheet 2 of 5), prepared by Planit Consulting Pty Ltd and dated June 2010;
- COLLINSLNE\_SUB\_03 (Rev 01) - Stage 3 (Sheet 3 of 5), prepared by Planit Consulting Pty Ltd and dated June 2010;
- COLLINSLNE\_SUB\_04 (Rev 01) - Stage 4 (Sheet 4 of 5 – As Amended in Red), prepared by Planit Consulting Pty Ltd and dated June 2010;
- COLLINSLNE\_SUB\_05 (Rev 01) – Building Envelopes (Sheet 5 of 5), prepared by Planit Consulting Pty Ltd and dated June 2010,

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 approved modifications to any existing public utilities situated within or adjacent to the subject property.

[GEN0135]

4. A Subdivision Works Accredited Certifier (SWAC) shall be appointed to assume the responsibility for certifying the compliance of the completed public infrastructure (refer to Development Construction Specification C101.01 for variations).

The SWAC shall be accredited by the Building Professionals Board Accreditation Scheme, 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.

[GEN0275]

5. The development is to be staged as follows:
  - Stage 1 includes Lots 1 to 7, with Lot 8 being a residual lot,
  - Stage 2 includes Lots 8 to 13, with Lot 14 being a residual lot. The existing house on proposed Lot 13 is to be demolished as part of Stage 2. The extension of Collins Lane and formation of new cul-de-sac head is included in Stage 2.
  - Stage 3 includes Lots 14, 15, 17 and 18. Lot 16 is a residual lot.
  - Stage 4 includes Lots 16 and 19. The existing guest wing on proposed Lot 19 is to be demolished as part of Stage 4.

[GENNS01]

6. No residential, associated buildings or structures are permitted on land zoned 7(f) Environmental Protection (Coastal Lands).

[GENNS02]

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

7. 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 as set out in Council's fees and charges at the time of payment.

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/Occupation Certificate is issued.

[PCC0275]

8. 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]

9. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, description of material, proposed use of material, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for the approval of the General Manager or his delegate.

[PCC0465]

10. A detailed plan of landscaping is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.

[PCC0585]

11. 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 any Construction Certificate. Safe public access shall be provided at all times.

[PCC0865]

12. 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 Development Design and Construction specifications.

### **URBAN ROAD**

- (a) Construction of the extension of Collins Lane, including partial reconstruction, to an urban bitumen sealed road standard; 7.5m between kerbs with a 9m radius cul-de-sac. Stormwater discharge from this new road shall be connected directly in to the existing stormwater system in the adjoining reserve, and not via open headwall discharge. This is a requirement of Stage 2.

OTHER

- (b) Construction of all necessary civil works required for the various stages of the development, including but not limited to: earthworks; stormwater infrastructure; water and sewer servicing infrastructure; other service provisions.

[PCC0875]

13. 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/furnishings
  - stormwater drainage
  - water supply works
  - sewerage works
  - landscaping works
  - sedimentation and erosion management plans
  - location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure)

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]

14. 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.
- (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]

15. 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]

16. Prior to the issue of a construction certificate for Stage 2 a demolition plan shall be submitted for the existing structure on proposed Lot 6 and proposed Lot 19 and approved by the General Manager or his delegate. All demolition works for Lot 6 shall comply with that approved plan.

Prior to the issue of a construction certificate for Stage 4 a demolition plan shall be submitted for the existing structure on proposed Lot 19 and approved by the General Manager or his delegate. All demolition works for Lot 19 shall comply with that approved plan.

[PCCNS01]

17. Prior to the issue of any construction certificate, the applicant is required to submit Work-as-Executed information, test results and engineering certification on any subdivisional civil works that were previously constructed on the site under either of the Council-issued construction certificates CC04/0402 and CC04/0403. All sewer junctions on new infrastructure are to be clearly nominated.

[PCCNS02]

18. The Stage 1 release must address (not necessarily construct) the stormwater management requirements for Stage 2 also. This is due to the requirement for all lots to infiltrate roofwater, and have a surcharge overflow path to the street. Lots 8 to 13 (Stage 2) have inconsistent fall away from the street, and the applicant is required to address any land reshaping requirements as Part of Stage 1. Some site filling may be necessary to achieve this.

[PCCNS03]

## **PRIOR TO COMMENCEMENT OF WORK**

19. 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]

20. 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, 3<sup>rd</sup> 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]

21. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of the fill, nature of material, proposed use of material and confirmation that further blending, crushing or processing is not to be undertaken shall be submitted to the satisfaction of the General Manager or his delegate.

Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to commencement of works.

[PCW0375]

22. 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 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) accredited in accordance with Tweed Shire Council DCP 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

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]

23. 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]

24. 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]

25. Prior to the commencement of works sedimentation and erosion control measures shall be placed and maintained which are effective in preventing the discharge of sediment materials outside the boundary of the property.

[PCWNS01]

## DURING CONSTRUCTION

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

[DUR0005]

27. 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]

28. 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.

$L_{Aeq, 15 \text{ min}}$  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.

$L_{Aeq, 15 \text{ min}}$  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]

29. 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]

30. 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]

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

[DUR0815]

32. 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]

33. 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]

34. 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]

35. 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]

36. A concrete footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Collins Lane 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 Development Engineering Section before placement of concrete to enable formwork and subgrade to be inspected.

[DUR1735]

37. 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]

38. 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]

39. During the relevant stages of road construction, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface 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]

40. The footpath area is to be graded to the kerb and turfed for the full frontage of the site. This is relevant for Stage 2 only.

[DUR1865]

41. 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]

42. 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

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]

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

[DUR1905]

- 44. 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]

- 45. The works are to be completed in accordance with Tweed Shire Councils Development Control Plan, Part A5 - Subdivision Manual and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.

[DUR2025]

- 46. 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]

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

[DUR2205]

- 48. 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 Development Design and Construction Specifications.

[DUR2355]

49. 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]

50. 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]

51. 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.

[DUR2435]

52. Any imported material shall be from an approved source and free from any contaminants.

[DURNS01]

53. 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]

#### **PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

54. 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]

55. 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:

##### Stage 1

Water DSP6:	7 ET @ \$11020 per ET	\$77140
South Kingscliff Water Levy:	7 ET @ 256 per ET	\$1792
Sewer Kingscliff:	7 ET @ \$5295 per ET	\$37065

Stage 2

Water DSP6:	5 ET @ \$11020 per ET	\$55100
South Kingscliff Water Levy:	5 ET @ 256 per ET	\$1280
Sewer Kingscliff:	5 ET @ \$5295 per ET	\$26475

Stage 3

Water DSP6:	4 ET @ \$11020 per ET	\$44080
South Kingscliff Water Levy:	4 ET @ 256 per ET	\$1024
Sewer Kingscliff:	4 ET @ \$5295 per ET	\$21180

Stage 4

Water DSP6:	1 ET @ \$11020 per ET	\$11020
South Kingscliff Water Levy:	1 ET @ 256 per ET	\$256
Sewer Kingscliff:	1 ET @ \$5295 per ET	\$5295

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]

56. 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.

Stage 1

(a) Tweed Road Contribution Plan:

45.5 Trips @ \$955 per Trips	\$43453
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	(\$868 base rate + \$87 indexation)	
	S94 Plan No. 4	
	Sector7_4	
	LCA4 - Casuarina:	\$7235
	45.5 trips at \$159 per trip	
	(\$144 base rate + \$15 indexation)	
(b)	Shirewide Library Facilities:	
	7 ET @ \$792 per ET	\$5544
	(\$792 base rate + \$0 indexation)	
	S94 Plan No. 11	
(c)	Bus Shelters:	
	7 ET @ \$60 per ET	\$420
	(\$60 base rate + \$0 indexation)	
	S94 Plan No. 12	
(d)	Eviron Cemetery:	
	7 ET @ \$120 per ET	\$840
	(\$101 base rate + \$19 indexation)	
	S94 Plan No. 13	
(e)	Extensions to Council Administration Offices & Technical Support Facilities	
	7 ET @ \$1759.9 per ET	\$12319.30
	(\$1759.9 base rate + \$0 indexation)	
	S94 Plan No. 18	
(f)	Casuarina Beach/Kings Forest Community Facilities:	
	7 ET @ \$1611 per ET	\$11277
	(\$1311 base rate + \$300 indexation)	
	S94 Plan No. 19	
(g)	Casuarina Beach/Kings Forest Open Space:	
	7 ET @ \$1231 per ET	\$8617
	(\$717 base rate + \$514 indexation)	
	S94 Plan No. 19	
(h)	Cycleways:	
	7 ET @ \$447 per ET	\$3129
	(\$447 base rate + \$0 indexation)	
	S94 Plan No. 22	
(i)	Regional Open Space (Casual)	

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7 ET @ \$1031 per ET (\$1031 base rate + \$0 indexation) S94 Plan No. 26	\$7217
(j) Regional Open Space (Structured): 7 ET @ \$3619 per ET (\$3619 base rate + \$0 indexation) S94 Plan No. 26	\$25333
Stage 2	
(a) Tweed Road Contribution Plan: 32.5 Trips @ \$955 per Trips (\$868 base rate + \$87 indexation) S94 Plan No. 4 Sector7_4	\$31038
LCA4 - Casuarina: 32.5 trips at \$159 per trip (\$144 base rate + \$15 indexation)	\$5168
(b) Shirewide Library Facilities: 5.6918 ET @ \$792 per ET (\$792 base rate + \$0 indexation) S94 Plan No. 11	\$4508
(c) Bus Shelters: 5.3 ET @ \$60 per ET (\$60 base rate + \$0 indexation) S94 Plan No. 12	\$318
(d) Eviron Cemetery: 5.619 ET @ \$120 per ET (\$101 base rate + \$19 indexation) S94 Plan No. 13	\$674
(e) Extensions to Council Administration Offices & Technical Support Facilities 5.4828 ET @ \$1759.9 per ET (\$1759.9 base rate + \$0 indexation) S94 Plan No. 18	\$9649.18
(f) Casuarina Beach/Kings Forest Community Facilities: 5.6922 ET @ \$1611 per ET (\$1311 base rate + \$300 indexation)	\$9170

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S94 Plan No. 19		
(g) Casuarina Beach/Kings Forest Open Space:		
5.6938 ET @ \$1231 per ET		\$7009
(\$717 base rate + \$514 indexation)		
S94 Plan No. 19		
(h) Cycleways:		
5.6874 ET @ \$447 per ET		\$2542
(\$447 base rate + \$0 indexation)		
S94 Plan No. 22		
(i) Regional Open Space (Casual)		
5.6968 ET @ \$1031 per ET		\$5873
(\$1031 base rate + \$0 indexation)		
S94 Plan No. 26		
(j) Regional Open Space (Structured):		
5.6932 ET @ \$3619 per ET		\$20604
(\$3619 base rate + \$0 indexation)		
S94 Plan No. 26		
Stage 3		
(a) Tweed Road Contribution Plan:		
26 Trips @ \$955 per Trips		\$24830
(\$868 base rate + \$87 indexation)		
S94 Plan No. 4		
Sector7_4		
LCA4 – Casuarina:		\$4134
26 trips at \$159 per trip		
(\$144 base rate + \$15 indexation)		
(b) Shirewide Library Facilities:		
4 ET @ \$792 per ET		\$3168
(\$792 base rate + \$0 indexation)		
S94 Plan No. 11		
(c) Bus Shelters:		
4 ET @ \$60 per ET		\$240
(\$60 base rate + \$0 indexation)		
S94 Plan No. 12		
(d) Eviron Cemetery:		
4 ET @ \$120 per ET		\$480



	(\$101 base rate + \$19 indexation)	
	S94 Plan No. 13	
(e)	Extensions to Council Administration Offices & Technical Support Facilities	
	4 ET @ \$1759.9 per ET	\$7039.60
	(\$1759.9 base rate + \$0 indexation)	
	S94 Plan No. 18	
(f)	Casuarina Beach/Kings Forest Community Facilities:	
	4 ET @ \$1611 per ET	\$6444
	(\$1311 base rate + \$300 indexation)	
	S94 Plan No. 19	
(g)	Casuarina Beach/Kings Forest Open Space:	
	4 ET @ \$1231 per ET	\$4924
	(\$717 base rate + \$514 indexation)	
	S94 Plan No. 19	
(h)	Cycleways:	
	4 ET @ \$447 per ET	\$1788
	(\$447 base rate + \$0 indexation)	
	S94 Plan No. 22	
(i)	Regional Open Space (Casual)	
	4 ET @ \$1031 per ET	\$4124
	(\$1031 base rate + \$0 indexation)	
	S94 Plan No. 26	
(j)	Regional Open Space (Structured):	
	4 ET @ \$3619 per ET	\$14476
	(\$3619 base rate + \$0 indexation)	
	S94 Plan No. 26	
	Stage 4	
(a)	Tweed Road Contribution Plan:	
	6.5 Trips @ \$955 per Trips	\$6208
	(\$868 base rate + \$87 indexation)	
	S94 Plan No. 4	
	Sector7_4	
	LCA4 – Casuarina:	\$1034
	6.5 trips at \$159 per trip	
	(\$144 base rate + \$15 indexation)	

(b) Shirewide Library Facilities: 1 ET @ \$792 per ET (\$792 base rate + \$0 indexation) S94 Plan No. 11	\$792
(c) Bus Shelters: 1 ET @ \$60 per ET (\$60 base rate + \$0 indexation) S94 Plan No. 12	\$60
(d) Eviron Cemetery: 1 ET @ \$120 per ET (\$101 base rate + \$19 indexation) S94 Plan No. 13	\$120
(e) Extensions to Council Administration Offices & Technical Support Facilities 1 ET @ \$1759.9 per ET (\$1759.9 base rate + \$0 indexation) S94 Plan No. 18	\$1759.90
(f) Casuarina Beach/Kings Forest Community Facilities: 1 ET @ \$1611 per ET (\$1311 base rate + \$300 indexation) S94 Plan No. 19	\$1611
(g) Casuarina Beach/Kings Forest Open Space: 1 ET @ \$1231 per ET (\$717 base rate + \$514 indexation) S94 Plan No. 19	\$1231
(h) Cycleways: 1 ET @ \$447 per ET (\$447 base rate + \$0 indexation) S94 Plan No. 22	\$447
(i) Regional Open Space (Casual) 1 ET @ \$1031 per ET (\$1031 base rate + \$0 indexation) S94 Plan No. 26	\$1031
(j) Regional Open Space (Structured): 1 ET @ \$3619 per ET (\$3619 base rate + \$0 indexation)	\$3619

S94 Plan No. 26

[PSC0175]

57. Section 94 Contributions

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

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]

58. 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]

59. Prior to the issue of a Subdivision Certificate for Stage 2, a maintenance bond equal to 25% of the contract value of the footpath construction works shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths are built on.

Alternatively, the developer may elect to pay a cash contribution to the value of the footpath construction works plus 25% in lieu of construction and Council will

construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.

[PSC0225]

60. 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]

61. Prior to the issue of a subdivision certificate, a certificate of compliance shall be submitted to Council by the Developers Subdivision Works Accredited Certifier (SWAC) or equivalent, verifying that the placed fill has been compacted in accordance with the requirements of AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments" and is suitable for residential purposes.

The submission shall include copies of all undertaken test results.

[PSC0395]

62. All landscaping requirements shall be completed to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate.

[PSC0485]

63. 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]

64. Prior to the issue of a Subdivision Certificate, Work as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design 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 (WAX) plans.

[PSC0735]

65. Subdivision Certificates for each Stage of the development will not be issued by the General Manager until such time as all conditions of this Development Consent, relevant to the particular Stage being released, have been complied with.

[PSC0825]

66. 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) The existing 'Right of Carriageway 10 wide, 16 wide and variable in width' encumbering the site, is to be extinguished as part of the Stage 2 works.
- (c) The existing Council-imposed title restrictions over the property are to be reiterated by all Stages of the proposed development, via inclusion in the 88B instrument of the plan of subdivision. These restrictions cover: the restricted building area within the site; stormwater discharge infiltration requirements; and pet and plant restrictions.

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]

- 67. 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]

- 68. Pursuant to Section 80A(1)(b) of the Environmental Planning and Assessment Act, 1979 (As amended) and Clause 97 of the Environmental Planning and Assessment Regulations, 2000, the following Development Consents shall be surrendered by lodgement of the prescribed information, suitably executed, PRIOR to the issue of a Subdivision Certificate for the nominated stage of the development;

Stage 1: - DA02/1009 and associated CC04/0403

- DA02/1708 and associated CC04/0402

- DA09/0048

Stage 2: - DA04/1023

- DA08/0749

- DA09/0109

- DA04/0151 (relating to the dwelling on proposed Lot 13)

Stage 4: - DA05/1294

[PSC0875]

- 69. 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]

70. 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]

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

[PSC0925]

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

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

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

[PSC1065]

73. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall 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.

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]

74. 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]

75. Electricity

- (a) The production of written evidence from the local electricity supply authority certifying that reticulation and energising of underground electricity (residential and rural residential) has been provided adjacent to the front boundary of each allotment; and
- (b) The reticulation includes the provision of fully installed electric street lights to the relevant Australian standard, where required. Such lights to be capable of being energised following a formal request by Council.

Should any electrical supply authority infrastructure (sub-stations, switching stations, cabling etc) be required to be located on Council land (existing or future), then Council is to be included in all negotiations. Appropriate easements are to be created over all such infrastructure, whether on Council lands or private lands.

Compensatory measures may be pursued by the General Manager or his delegate for any significant effect on Public Reserves or Drainage Reserves.

[PSC1185]

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

### Asset Protection Zones

1. At the issue of subdivision certificate and in perpetuity the entire property 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*'.

### Water and Utilities

2. Water, electricity and gas are to comply with section 4.1.3 of '*Planning for Bush Fire Protection 2006*'.

### Access

3. Public road access shall comply with section 4.1.3 (1) of '*Planning for Bush Fire Protection 2006*', except that a through road is not required in this case.

### Design and Construction

4. The existing dwellings are required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable

windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

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**

**12 [PR-CM] Development Application DA10/0283 for Re-subdivision of 16 Lots into 23 Lots at Lots 1-16 Section 8 DP 14895, Casuarina Way, Kingscliff**

611

**Cr D Holdom**  
**Cr W Polglase**

**RESOLVED** that Development Application DA10/0283 for a re-subdivision of 16 lots into 23 lots at Lots 1 - 16 Section 8 DP 14895, Casuarina Way, KINGSCLIFF be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Preliminary Plan of Subdivision Plans:
  - Sheet 1 of 2 Sheets prepared by Brian Darryl Raaen and dated 10/08/2010
  - Sheet 2 of 2 Sheets prepared by Brian Darryl Raaen and dated 10/08/2010except where varied by the conditions of this consent.

[GEN0005]
2. This subdivision application has approved 23 single dwelling allotments only (no duplex sites have been approved by this application). Each allotment is to be a minimum of 450m<sup>2</sup> in size (excluding battle handles) as indicated on the approved plan.

[GEN0005]
3. All works shall comply with the Seaside City, Kingscliff Construction Environmental Management Plan prepared by Cardno and dated 6 July 2007 to the satisfaction of the Council.

[GEN0005]
4. All works shall comply with the Radiation Investigation and Remediation Action Plan prepared by Cardno and dated 23 May 2008 to the satisfaction of the Council
5. The use of crushing plant machinery, mechanical screening or mechanical blending of materials is subject to separate development application.

[GEN0045]
6. Subject to Condition 71, 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]

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

[GEN0135]

8. All works shall comply with the Acid Sulfate Soils Management Plan prepared by Cardno and dated 23 May 2008 to the satisfaction of the Council.

[GEN0005]

9. All works shall comply with the Seaside City Northwest Subdivision Erosion and Sediment Control Plan prepared by Cardno and dated 8 April 2010.

[GEN0005]

10. As required by condition 11 below the primary revegetation/restoration works within the riparian buffer as detailed within the approved Plan of Management for existing Lots 1 to 9 Section 8 DP 14895 zoned 7(l) Environmental Protection (Habitat) must be completed within 12 months of the issue of this development consent.

[GEN0005]

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

11. A Plan of Management must be prepared for the riparian buffer of existing Lots 1 to 9 Section 8 DP 14895 zoned 7(l) Environmental Protection (Habitat) by suitably qualified person with knowledge and experience in the local vegetation reference community (Littoral/ riparian rainforest) and submitted to Director Planning and Regulation for approval. The Plan of Management must provide the following:

- planting and maintenance details to enable local native species to cover the riparian buffer including at least two trees per lot selected from the list within the approved vegetation management plan for DA05/0793
- management of the 5m Asset Protection Zone
- potential impacts and methods to avoid these impacts arising upon the ecological values of the riparian corridor: disturbance of native flora and fauna as a result of intrusion by humans and domestic animals: increased fire risk: rubbish dumping: weed invasion and vegetation clearing. The Plan of Management is to include an Implementation Schedule in accordance with the draft guidelines attached which provide for progress reports on implementation of the plan to be given to the Council no less than once per year for a period of five years not later than on each anniversary of the date of this development consent or until a dwelling is constructed on the affected lots.

[PCCNS01]

12. 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 as set out in Council's fees and charges at the time of payment.

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]

13. 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]

14. 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.

[PCC0485]

15. A detailed plan of landscaping is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.

[PCC0585]

16. 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]

17. 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 Development Design and Construction specifications.

#### RIGHT OF CARRIAGEWAY

- (a) The right of carriageways providing access to proposed lots 37, 38, 39, 41, 42, 43, 45, 46 and 47 shall be constructed with a 4.5m wide concrete pavement and shall also comply in general terms with Council's Driveway Access to Property Policy.

[PCC0875]

18. Prior to the issue of a Construction Certificate for civil works to be dedicated to Council 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
  - Rights of Carriageway
  - stormwater drainage
  - water supply works
  - sewerage works
  - landscaping works

- sedimentation and erosion management plans
- location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure)

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]

19. 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 6m 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]

20. 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]

21. Prior to the issue of a Construction Certificate for this development all works necessary to provide infrastructure and services to the proposed 23 lots as approved under Construction Certificate CC08/0473 shall be completed to the satisfaction of the General Manager.

[PCCNS01]

### **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 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]

24. 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, 3<sup>rd</sup> 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]

25. Any imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of the fill, nature of material, proposed use of material and confirmation that further blending, crushing or processing is not to be undertaken shall be submitted to the satisfaction of the General Manager or his delegate.

Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to commencement of works.

[PCW0375]

26. 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 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) accredited in accordance with Tweed Shire Council DCP 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
  - 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]

27. 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]

28. 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**

29. 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]

30. 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]

31. 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.

$L_{Aeq, 15 \text{ min}}$  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.

$L_{Aeq, 15 \text{ min}}$  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]

32. Any 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]

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

[DUR0815]

34. 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]

35. 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]

36. 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]

37. 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]

38. 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]

39. All hazardous and/or dangerous goods shall be handled and stored in a designated area away from stormwater drains. The designated area is to be: -

- (a) Roofed;
- (b) Provided with a sealed floor; and

Bunded so as to hold 110% of the total quantity of goods stored. Bunded area(s) shall not be flood-labile and shall be provided with pump out facilities.

[DUR1635]

40. A concrete footpath 1.2 metres wide is to be constructed on a compacted base along the entire frontage of the site to Casuarina Way 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]

41. 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]

42. 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) Rights of Carriageway
- (b) Pathways, footways, bikeways - formwork/reinforcement
- (c) Final inspections - on maintenance
- (d) 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]

43. 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]

44. 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]

45. 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]

46. 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]

47. 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]

48. All topsoil stockpiles are to be sprayed with dust suppression material such as "hydromulch", "dustex" or equivalent. All haul roads shall be regularly watered or treated with dust suppression material or as directed on site.

[DURNS01]



49. Noise from the proposed works shall not be permitted to unreasonably impact the amenity of any residential premise.

[DURNS01]

50. All construction activities that generate dust shall cease when average wind speeds exceed 15m/s(54 km/h). The applicant shall be responsible for providing a calibrated wind meter on site to monitor wind speeds. The wind meter must be located so that it is easily accessed by relevant supervisors and Council Officers. This data must be able to be produced to Council on request.

[DURNS02]

### **PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE**

51. 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]

52. 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:	23 ET @ \$11020 per ET	\$253460
South Kingscliff Water Levy:	23 ET @ 256 per ET	\$5888
Sewer Kingscliff:	23 ET @ \$5295 per ET	\$121785

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.

[PCC0265/PSC0165]

53. 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:

45.5 Trips @ \$955 per Trips \$43453  
(\$868 base rate + \$87 indexation)  
S94 Plan No. 4  
Sector7\_4

(b) Shirewide Library Facilities:

7 ET @ \$792 per ET \$5544  
(\$792 base rate + \$0 indexation)  
S94 Plan No. 11

(c) Bus Shelters:

7 ET @ \$60 per ET \$420  
(\$60 base rate + \$0 indexation)  
S94 Plan No. 12

(d) Eviron Cemetery:

7 ET @ \$120 per ET \$840  
(\$101 base rate + \$19 indexation)  
S94 Plan No. 13

(e) Community Facilities (Tweed Coast – North)

7 ET @ \$581 per ET \$4067  
(\$581 base rate + \$0 indexation)  
S94 Plan No. 15

(f) Extensions to Council Administration Offices  
& Technical Support Facilities

7 ET @ \$1759.90 per ET \$12319.30  
(\$1759.9 base rate + \$0 indexation)  
S94 Plan No. 18

(g) Cycleways:

Plan No. 22 states \$47 per m<sup>2</sup> for 715m<sup>2</sup> of cycleway.  
This equates to \$84, 012 credit

Minus \$2, 682 (DA08/0755) = \$81, 330 credit for works in kind.

Minus \$447 (DA09/0816) = \$80, 883 credit for works in kind.

Minus \$447 (DA09/0822) = \$80,386

An additional 7 lots for DA10/0283 (\$3129)

Leaves a credit of \$77,257

Therefore NIL charge

(\$447 base rate + \$0 indexation)

S94 Plan No. 22

(h) Seaside City Structured Open Space:

7 ET @ \$3585 per ET \$25095

(\$3585 base rate + \$0 indexation)

S94 Plan No. 28

[PCC0215/PSC0175]

54. 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]

55. Prior to the issue of a Subdivision Certificate, a maintenance bond equal to 25% of the contract value of the footpath construction works shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths are built on.

Alternatively, the developer may elect to pay a cash contribution to the value of the footpath construction works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.

[PSC0225]

56. 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]

57. Prior to the issue of a Subdivision Certificate, Work as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design 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 (WAX) plans.

[PSC0735]

58. All retaining walls in excess of 1.2m are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the subdivision certificate application and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

In addition to the above certification, the following is to be included in the Section 88B Instrument to accompany the final plan of subdivision.

- (a) A restriction to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.3m in vertical height within a zone adjacent to the wall that is equal to the height of the wall.
- (b) Each lot burdened and or benefited by a Type 1 wall as defined in AS4678-2002 Earth Retaining Structures, shall contain a restriction to user advising the landowner of the need to maintain the wall in accordance with that standard.

Tweed Shire Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

[PSC0785]

59. 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]

60. 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) Rights of carriageway with a minimum width of six (6.0m) meters shall created over the accessways to proposed lots .37, 38, 39, 41, 42, 43, 45, 46 and 47
- (c) 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
- (d) 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.
- (e) Restriction as to user regarding the riparian buffer described within the approved Plan of Management for the riparian buffer – this area must be subject to an approved restoration program and managed as a natural area

in perpetuity. Burden: Part existing Lots 1 to 9 Section 8 DP 14895 zoned 7(l) Environmental Protection (Habitat) Benefit: Tweed Shire Council

- (f) Restriction as to user regarding the riparian buffer– primary works as described within the approved Plan of Management for the site must be completed prior to the occupation of any building on the site Burden: Part existing Lots 1 to 9 Section 8 DP 14895 zoned 7(l) Environmental Protection (Habitat) Benefit: Tweed Shire Council
- (g) Restriction as to user regarding dog and cat ownership and control on all residential lots in the following terms:
- Owners of dogs within the development shall have their yards fenced as to securely contain a maximum of one (1) dog per allotment and the ownership of cats within the development shall be restricted to one (1) de-sexed cat per allotment and such cats shall be restrained within the house or a secure night cage between the hours of 6.00pm and 6.00am.
  - No dog shall be registered without the consultation of a dog-proof compound which must be approved by Council and the relevant fee paid by the applicant.
  - No owner can retrieve a dog that has been impounded unless they can demonstrate to Council they have a secure compound.

Burden: Lots 1 to 16 Section 8 DP 14895. Benefit: Tweed Shire Council

- (h) Restriction as to user indicating that part of the lots zoned 7(l) Environmental Protection (Habitat) are located within the 50m Cudgen Creek buffer area and no building works, swimming pools or structures are to be placed within this buffer area. Burden: Part Existing Lots 1 to 9 Section 8 DP 14895 zoned 7(l) Environmental Protection (Habitat) Benefit: Tweed Shire Council
- (i) Restriction as to user creating the asset protection zone as described in detail at Conditions 73 and 74 of this consent.
- (j) Restriction as to user requiring all landscaping to be comprised of local native species as approved within the Vegetation Management Plan for the adjacent riparian zone and cycleway.

**Burden:** Lots 1 to 16 Section 8 DP 14895. **Benefit:** Tweed Shire Council

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]

61. 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]

62. 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]

63. 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 – Water Reticulation
- (b) Compliance Certificate – Sewerage Reticulation
- (c) 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]

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

[PSC0925]

65. 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.

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]

66. The production of written evidence from the local telecommunications supply authority certifying that the provision and commissioning of underground telephone to all allotments has been completed.

[PSC1165]

67. Electricity

- (a) The production of written evidence from the local electricity supply authority certifying that reticulation and energising of underground electricity (residential and rural residential) has been provided adjacent to the front boundary of each allotment; and
- (b) The reticulation includes 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.

Should any electrical supply authority infrastructure (sub-stations, switching stations, cabling etc) be required to be located on Council land (existing or future), then Council is to be included in all negotiations. Appropriate easements are to be created over all such infrastructure, whether on Council lands or private lands.

Compensatory measures may be pursued by the General Manager or his delegate for any significant effect on Public Reserves or Drainage Reserves.

[PSC1185]

68. Prior to issue of a subdivision certificate a validation statement for the subject development stage regarding radiation monitoring, from a suitably qualified person, shall be provided to Council to the satisfaction of the General Manager or his delegate. Monitoring and investigation shall include both surface and depth monitoring. The validation statement shall confirm compliance with the approved remediation action plan, include details of monitoring undertaken, the nature and depth of materials on site, and establish that the site is suitable for the proposed use.

[PSCNS01]

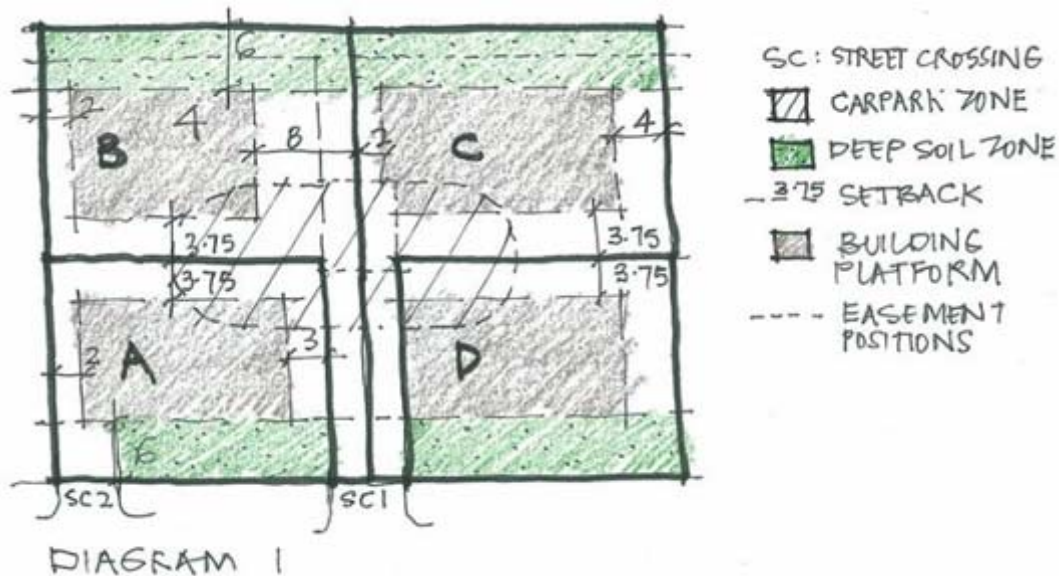
69. Prior to the issue of a subdivision certificate surface radiation monitoring of Lot 1971 DP 133919 and Lot 500 DP 727420 shall be completed to the satisfaction of the General Manager or his delegate. Prior to the issue of a subdivision certificate a validation statement of surface radiation levels on Lot 1971 DP 133919 and Lot 500 DP 727420 shall be completed to the satisfaction of the General Manager or his delegate which establishes that the sites are suitable for the use.

[PSCNS01]

70. Prior to issue of a subdivision certificate, all infrastructure works approved in Stage 1 of Development Consent DA 05/1464 as modified from time to time must be completed to the satisfaction of the Council.

[PSCNS02]

71. The battleaxe allotments will be developed in accordance with the principles illustrated in Diagram 1 below:



These provisions are to be read in conjunction with the Coastal Housing provisions described in Tweed Shire Council DCP 2008: Section B11 – Seaside City.

These provisions are applicable as guiding principles and are described by a layout common to the four individual clusters of lots in the application which are designated Lots A, B, C and D on Diagram 1.

The principles underpinning these clusters/battleaxe allotments are:

- (i) the maximum number of driveway footpath crossings applicable to each cluster will be 2. Crossings will be allowed in the central location between allotments and adjacent to the southern boundary of Lot A. Not other crossing positions will be allowed.
- (ii) If a single street crossing is nominated all carparking for the lots will be located generally in the area designated on Diagram 1.
- (iii) A 3.75 metre setback, shall apply on either side of the common north-south boundary between Lots A and B, and between Lots D and C, to provide a minimum of 7.5 metres separation distance between habitable rooms. Garages and Carports may intrude into this setback.
- (iv) A deep soil zone will be provided in the 6 metre setback of Lots A and D along the frontage to Casuarina Way and in the 6 metre setback to the rear boundary of Lots B and C.
- (v) Each lot will contain a 30% landscape provision inclusive of deep soil areas previously nominated. All landscaping must consist entirely of local native species.
- (vi) Each lot will have additional minimum setbacks as designated on the attached Diagram 1 (carports and garages excepted) to provide for effective privacy, screening and solar access.

If there is any inconsistency between this condition and the controls in the Tweed Shire DCP 2008, then this condition prevails to the extent of the inconsistency.

72. Any future dwellings on the standard allotments (proposed Lots 25-35) must comply with Tweed DCP Section A1 and B11 Seaside City in relation to landscaping (30% as per B11), setbacks, height and density.



73. In satisfaction of the RFS' GTA condition (1) a 15m wide Asset Protection Zone (APZ) to the west for Lots 25 to 35 (inclusive) must be provided at the commencement of building works as follows:
- (a) 5m of the APZ to be situated on Lots 25 to 35 (inclusive) and Lots 37, 38, 41, 42, 45 and 46; and
  - (b) 10m of the APZ to be situated on the adjoining unnamed road reserve (which borders Lot 1971).
74. In satisfaction of the RFS' GTA condition (1), 15m wide Asset Protection Zone (APZ) to the north for Lots 46 and 47 (inclusive) must be provided at the commencement of building works as follows:
- (a) 9m of the APZ to be situated on Lots 46 and 47 (inclusive) and
  - (b) 6m of the APZ to be situated on the adjoining unnamed road reserve.

### **GENERAL TERMS OF APPROVAL**

Bushfire Safety Authority

As Required Under Section 100B of the *Rural Fires Act 1997*

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

1. Future dwellings will require a minimum 15 metre APZ to the west and north. The APZ shall be managed as an inner protection area (IPA) as outlined within Appendices 2 & 5 of Planning for Bush Fire Protection 2006 and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

2. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

General Advice – consent authority to note

This approval is for the subdivision of the land only. Future DA for the erection of a dwelling within this subdivision will be subject to the requirements as set out in 'Planning for Bush Fire Protection 2006'.

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**

**612 COUNCIL DECISION:**

**Cr W Polglase  
Cr J van Lieshout**

**RESOLVED** that Standing Orders be suspended to deal with Item 17 [PR-CM] Urliup Road Compliance Matter of the Agenda.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**17 [PR-CM] Urliup Road Compliance Matter**

**613**

**Cr J van Lieshout  
Cr P Youngblutt**

**RESOLVED** that:

1. *ATTACHMENT 1 and 2 is CONFIDENTIAL in accordance with Section 104(2)(a) of the Local Government Act 1993, because it contains personnel matters concerning particular individuals (other than councillors).*
2. Council determines that the works undertaken constitute “agriculture” thus representing development permitted without consent.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**614**

**Cr W Polglase  
Cr J van Lieshout**

**RESOLVED** that Standing Orders be resumed.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**13 [PR-CM] Development Application DA10/0066 for a Two (2) Lot Subdivision at Lot 10 DP 1034435 No. 285 Clothiers Creek Road, Nunderi**

This item was deferred for discussion until after the dinner break – (Minute No 656 refers)

**14 [PR-CM] Development Application DA10/0439 for a Boundary Adjustment at Lot 514, 515 DP 1132400, No. 40-44 and 46-48 Honeyeater Circuit, South Murwillumbah**

615

**Cr K Milne  
Cr B Longland**

**RESOLVED** that Development Application DA10/0439 for a boundary adjustment at Lot 514, 515 DP 1132400, No. 40-48 Honeyeater Circuit, South Murwillumbah be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 21020PROP Sheet 1 of 1 prepared by N.C. White & Associates and dated 22/06/2010, 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]

**PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

3. 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]

4. 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.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating a right of carriageway or easement shall make provision for maintenance of the right of carriageway or 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 (as applicable).

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.

[PSC0835]

5. 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]

**Cr D Holdom left the meeting at 05:16 PM**

The Motion was **Carried**

**FOR VOTE - Voting - Unanimous**  
**ABSENT. DID NOT VOTE - Cr D Holdom**

- 15 [PR-CM] Development Application DA06/1275.01 for an Amendment to Development Consent DA06/1275 for Manufacturing Sheds, Depot, Office and Storage at Lot 201 DP 1002166, Pottsville Road, Sleepy Hollow**

**616**

**Cr P Youngblutt**  
**Cr W Polglase**

**PROPOSED** that Development Application DA06/1275.01 for an amendment to Development Consent DA06/1275 for manufacturing sheds, depot, office and storage at Lot 201 DP 1002166, Pottsville Road, Sleepy Hollow be approved and the following changes be made to the consent:

1. Delete Condition 1 and replace with new Condition 1A that reads as follows:
  - 1A. The development shall be completed in accordance with the S96 DA06/1275.01 and Drawing No 1.3 prepared by Darren Gibson Planning and dated April 2008, except where varied by the conditions of this consent.
2. Delete Condition 7.
3. Delete the heading PRIOR TO CONSTRUCTION CERTIFICATE.
4. Delete Condition 8.
5. Delete Condition 9 and replace with a new condition under the USE heading which reads as follows:

# Any carparking floodlighting shall not spill beyond the boundaries of the site. Lighting shall comply with AS 4282 and other relevant Australian Standards.
6. Delete Condition 10.
7. Delete Condition 11 and replace with a new condition under the GENERAL heading which reads as follows:

- # Any works to be carried out within the adjoining road reserve is subject to a Section 138 application and approval being issued by Tweed Shire Council as the road authority.
- Application for these works and receipt of approval is to be within 3 months of DA06/1275.01 approval notice.
8. Delete Condition 12 and replace with a new condition under the GENERAL heading which reads as follows:
- # All imported material shall be from an approved source and free of any contamination. Documentary evidence of the fill source and that the material is free of any contamination shall be maintained on site and provided to Council upon request.
9. Delete Conditions 10 – 16.
10. Delete Condition 17 and replace with a new condition under the GENERAL heading which reads as follows:
- # Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -
- The applicant shall provide a Basic Right Turn BAR treatment for a right turn movement from Pottsville-Mooball Road into the development in accordance with figure 6.37 of Austroads 2005, intersection at Grade.
- The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following: -
- Road works/furnishings
  - Stormwater drainage
  - Water and sewerage works
  - Sediment and erosion control plans
  - Location of all services/conduits
  - Traffic control plan
  - The applicant to prepare engineering plans and lodge the plans with Tweed Shire Council within 3 months of receiving development approval.
  - The applicant to complete the works within six (6) months of receiving the S138 approval.
11. Delete Conditions 18 – 22.
12. Delete Condition 23 and replace with a new condition under the GENERAL heading which reads as follows:
- # Section 94 Contributions
- Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Within 3 months of approval of DA06/1275.01 all Section 94 Contributions must be paid.

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: \$13,500  
S94 Plan No. 4 (Version 4.0)  
Sector8a\_4

13. Delete Conditions 24 – 28.
14. Delete Conditions 35 – 41.
15. Delete Conditions 43 – 50.
16. Delete Conditions 65 -66.
17. Delete Condition 69.
18. Delete Heading PRIOR TO OCCUPATION CERTIFICATE.
19. Delete Conditions 77 – 78.
20. Delete Condition 79 and replace with a new condition under the GENERAL heading which reads as follows:
  - # Within 3 months of approval of DA06/1275.01 all existing essential fire safety measures are to be certified by a qualified person to the effect that each of the fire safety measures has been assessed and were found to be performing to a standard not less than that to which it was originally designed.
21. Delete Condition 80 and replace with a new condition under the GENERAL heading which reads as follows:
  - # Within 3 months of approval of DA06/1275.01 a final inspection report is to be obtained from Council to verify the satisfactory installation of all plumbing and drainage and the on-site sewage management facility.
22. Delete Conditions 81 – 83.
23. Delete Condition 89 and replace with a new condition under the GENERAL heading which reads as follows:
  - # Within 3 months of approval of DA06/1275.01 Development Consent No.T4/1762 is to be surrendered in accordance with Section 80A(5) of the Environmental Planning and Assessment Act 1979 and Clause 97 of the Environmental Planning and Assessment Regulations 2000.
24. Delete Condition 90.
25. Delete Condition 99.

26. Add new Condition under the USE heading which reads as follows:
  - # Sand blasting shall not be conducted at the premise.
27. Add new Condition under the USE heading which reads as follows:
  - # Windows, doors and any other opening in the north, east or south walls of the manufacturing buildings are not permitted to be open at any time whilst manufacturing processes are being conducted.
28. Add new Condition under the USE heading which reads as follows:
  - # The LAeq(15min) noise level emitted from any activity undertaken in association with this consent shall not exceed the background noise level (LA90) by more than 5dBA at the boundary of any effected residence during the permitted hours of operation.
29. Add new Condition under the GENERAL heading which reads as follows:
  - # All activities at the property shall comply with the Site Management Plan for Industrial Site at Lot 201 DP 1002166 Pottsville Road Sleepy Hollow, Southern Cross University, August 2008 to the satisfaction of the Tweed Shire Council General Manager or his delegate. All necessary statutory approvals and associated investigations shall be obtained prior to any disturbances of the potentially contaminated portions of the site.
30. Add new Condition under the GENERAL heading which reads as follows:
  - # The existing spoon drain on the northern side of the northern building shall be converted to piped stormwater drainage to the satisfaction of the General Manager or his delegate within 30 days of the date of this amended consent. The piped stormwater drain shall be covered with imported material from an approved source that is free of any contamination. Existing materials at the base or sides of the spoon drain shall not be disturbed or excavated. Sediment and erosion controls shall be placed during these works which is effective in preventing the transport of any sediment material outside the property boundary.
31. Add new Condition under the USE heading which reads as follows:
  - # The premise is not to be used or adapted for separate residential habitation or occupation.
32. Add new Condition under the GENERAL heading which reads as follows:
  - # No exposure or use of groundwater on the site is permitted.
33. Add new Condition under the GENERAL heading which reads as follows:
  - # *Not more than 60 days from the date of this consent the applicant is required to lodge an application to install an onsite sewerage management system under section 68 of the Local Government Act, 1993 pay the appropriate fee and be issued with an approval.*
34. Add new Condition under the GENERAL heading which reads as follows:
  - # *Not more than 120 days from the date of this consent the existing on site sewage management system shall be upgraded in accordance with any Section 68 approval issued by Council. The on site sewage treatment and disposal system installed shall comply with the recommended on site sewage treatment and disposal methods outlined in the amended On-site Sewage Management Design Report, HMC August 2009 including all*

*recommendations of that report or to the satisfaction of the General Manager or his delegate.*

35. Add new Condition under the GENERAL heading which reads as follows:

- # *The treated effluent disposal area shall be identified by way of signs and vehicle access to the disposal area shall be prevented at all times.*

**Cr D Holdom returned from temporary absence at 05:18 PM**

617

**AMENDMENT 1**

**Cr K Milne  
Cr B Longland**

**PROPOSED** that Development Application DA06/1275.01 for an amendment to Development Consent DA06/1275 for manufacturing sheds, depot, office and storage at Lot 201 DP 1002166, Pottsville Road, Sleepy Hollow be deferred for a workshop.

Amendment 1 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**

618

**AMENDMENT 2**

**Cr D Holdom  
Cr W Polglase**

**RESOLVED** that Development Application DA06/1275.01 for an amendment to Development Consent DA06/1275 for manufacturing sheds, depot, office and storage at Lot 201 DP 1002166, Pottsville Road, Sleepy Hollow be approved and the following changes be made to the consent:

1. Delete Condition 1 and replace with new Condition 1A that reads as follows:
  - 1A. The development shall be completed in accordance with the S96 DA06/1275.01 and Drawing No 1.3 prepared by Darren Gibson Planning and dated April 2008, except where varied by the conditions of this consent.
2. Delete Condition 7.
3. Delete the heading PRIOR TO CONSTRUCTION CERTIFICATE.
4. Delete Condition 8.
5. Delete Condition 9 and replace with a new condition under the USE heading which reads as follows:

# Any carparking floodlighting shall not spill beyond the boundaries of the site. Lighting shall comply with AS 4282 and other relevant Australian Standards.



6. Delete Condition 10.
  7. Delete Condition 11 and replace with a new condition under the GENERAL heading which reads as follows:
    - # Any works to be carried out within the adjoining road reserve is subject to a Section 138 application and approval being issued by Tweed Shire Council as the road authority.

Application for these works and receipt of approval is to be within 3 months of DA06/1275.01 approval notice.
  8. Delete Condition 12 and replace with a new condition under the GENERAL heading which reads as follows:
    - # All imported material shall be from an approved source and free of any contamination. Documentary evidence of the fill source and that the material is free of any contamination shall be maintained on site and provided to Council upon request.
  9. Delete Conditions 10 – 16.
  10. Delete Condition 17 and replace with a new condition under the GENERAL heading which reads as follows:
    - # Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -

The applicant shall provide a Basic Right Turn BAR treatment for a right turn movement from Pottsville-Mooball Road into the development in accordance with figure 6.37 of Austroads 2005, intersection at Grade.

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following: -

      - Road works/furnishings
      - Stormwater drainage
      - Water and sewerage works
      - Sediment and erosion control plans
      - Location of all services/conduits
      - Traffic control plan
      - The applicant to prepare engineering plans and lodge the plans with Tweed Shire Council within 3 months of receiving development approval.
      - The applicant to complete the works within six (6) months of receiving the S138 approval.
  11. Delete Conditions 18 – 22.
  12. Delete Condition 23 and replace with a new condition under the GENERAL heading which reads as follows:
    - # Section 94 Contributions
-

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

Within 3 months of approval of DA06/1275.01 all Section 94 Contributions must be paid.

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: \$13,500  
S94 Plan No. 4 (Version 4.0)  
Sector8a\_4

13. Delete Conditions 24 – 28.
14. Delete Conditions 35 – 41.
15. Delete Conditions 43 – 50.
16. Delete Conditions 65 -66.
17. Delete Condition 69.
18. Delete Heading PRIOR TO OCCUPATION CERTIFICATE.
19. Delete Conditions 77 – 78.
20. Delete Condition 79 and replace with a new condition under the GENERAL heading which reads as follows:
  - # Within 3 months of approval of DA06/1275.01 all existing essential fire safety measures are to be certified by a qualified person to the effect that each of the fire safety measures has been assessed and were found to be performing to a standard not less than that to which it was originally designed.
21. Delete Condition 80 and replace with a new condition under the GENERAL heading which reads as follows:
  - # Within 3 months of approval of DA06/1275.01 a final inspection report is to be obtained from Council to verify the satisfactory installation of all plumbing and drainage and the on-site sewage management facility.
22. Delete Conditions 81 – 83.
23. Delete Condition 89 and replace with a new condition under the GENERAL heading which reads as follows:
  - # Within 3 months of approval of DA06/1275.01 Development Consent No.T4/1762 is to be surrendered in accordance with Section 80A(5) of the Environmental Planning and Assessment Act 1979 and Clause 97 of the Environmental Planning and Assessment Regulations 2000.

24. Delete Condition 90.
25. Delete Condition 99.
26. Add new Condition under the USE heading which reads as follows:
  - # Sand blasting shall not be conducted at the premise.
27. Add new Condition under the USE heading which reads as follows:
  - # Windows, doors and any other opening in the north, east or south walls of the manufacturing buildings are not permitted to be open at any time whilst manufacturing processes are being conducted.
28. Add new Condition under the USE heading which reads as follows:
  - # The LAeq(15min) noise level emitted from any activity undertaken in association with this consent shall not exceed the background noise level (LA90) by more than 5dBA at the boundary of any effected residence during the permitted hours of operation.
29. Add new Condition under the GENERAL heading which reads as follows:
  - # All activities at the property shall comply with the Site Management Plan for Industrial Site at Lot 201 DP 1002166 Pottsville Road Sleepy Hollow, Southern Cross University, August 2008 to the satisfaction of the Tweed Shire Council General Manager or his delegate. All necessary statutory approvals and associated investigations shall be obtained prior to any disturbances of the potentially contaminated portions of the site.
30. Add new Condition under the GENERAL heading which reads as follows:
  - # The existing spoon drain on the northern side of the northern building shall be converted to piped stormwater drainage to the satisfaction of the General Manager or his delegate within 30 days of the date of this amended consent. The piped stormwater drain shall be covered with imported material from an approved source that is free of any contamination. Existing materials at the base or sides of the spoon drain shall not be disturbed or excavated. Sediment and erosion controls shall be placed during these works which is effective in preventing the transport of any sediment material outside the property boundary.
31. Add new Condition under the USE heading which reads as follows:
  - # The premise is not to be used or adapted for separate residential habitation or occupation.
32. Add new Condition under the GENERAL heading which reads as follows:
  - # No exposure or use of groundwater on the site is permitted.
33. Add new Condition under the GENERAL heading which reads as follows:
  - # *Not more than 60 days from the date of this consent the applicant is required to lodge an application to install an onsite sewerage management system under section 68 of the Local Government Act, 1993 pay the appropriate fee and be issued with an approval.*
34. Add new Condition under the GENERAL heading which reads as follows:
  - # *Not more than 120 days from the date of this consent the existing on site sewerage management system shall be upgraded in accordance with any Section 68 approval issued by Council. The on site sewage treatment and*

*disposal system installed shall comply with the recommended on site sewage treatment and disposal methods outlined in the amended On-site Sewage Management Design Report, HMC August 2009 including all recommendations of that report or to the satisfaction of the General Manager or his delegate.*

35. Add new Condition under the GENERAL heading which reads as follows:
- # *The treated effluent disposal area shall be identified by way of signs and vehicle access to the disposal area shall be prevented at all times.*
36. A detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species is to be submitted and approved by Council's General Manager or his delegate within one (1) month of the amended consent being issued. The landscaping plan is to include landscaping along the southern and eastern property boundaries.
37. All landscaping work is to be completed in accordance with the approved plans within three (3) months of the landscaping plan being approved and maintained into the future.

Amendment 2 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***

**PROCEDURAL MOTION**

**619**

**Cr W Polglase**  
**Cr K Skinner**

**RESOLVED** that the Motion be put.

The Procedural Motion was **Carried**

***FOR VOTE - Unanimous***

Amendment 2 on becoming the Motion was **Carried** - (Minute No 618 refers)

***FOR VOTE - Unanimous***

- 16 [PR-CM] Development Application DA09/0722.01 - Amendment to Development Consent DA09/0722 for a Dwelling, Swimming Pool and Spa at Lot 31 DP 1030322, Collins Lane, Casuarina

620

Cr D Holdom  
Cr P Youngblutt

**RESOLVED** that Development Application DA09/0722.01 for amendment to Development Consent DA09/0722 for a dwelling, swimming pool and spa at Lot 31 DP 1030322 Collins Lane, Casuarina be refused for the following reasons:

1. Pursuant to Section 79C(1)(a)(iii) the proposed amendment does not comply with the side boundary setback required by Section B5 Casuarina Beach) of the Tweed Development Control Plan.
2. Pursuant to Section 79C(1)(b) the proposal will have an adverse impact on the amenity of the adjacent property at Lot 30 Collins Lane, Casuarina.

The Motion was **Carried**

***FOR VOTE - Unanimous***

- 17 [PR-CM] Urliup Road Compliance Matter

This item was dealt with earlier in the Agenda – (Minute No 613 refers)

- 18 [PR-CM] Planning Reform Unit Project Update on Draft Tweed Local Environmental Plans, Review of Development Control Plan Section A1 (Residential and Tourist Development Code) and Hastings Point Locality Based Development Control Plan

621

Cr J van Lieshout  
Cr P Youngblutt

**PROPOSED** that the report on Planning Reform Unit Project Update on Draft Tweed Local Environmental Plans, Review of Development Control Plan Section A1 (Residential and Tourist Development Code) and Hastings Point Locality Based Development Control Plan be received and noted.

**622**

**AMENDMENT**

**Cr K Milne  
Cr B Longland**

**RESOLVED** that:

1. The report on Planning Reform Unit Project Update on Draft Tweed Local Environmental Plans, Review of Development Control Plan Section A1 (Residential and Tourist Development Code) and Hastings Point Locality Based Development Control Plan be received and noted.
2. Council holds a workshop to update Councillors on the Draft LEP Stage 1, including model local clauses.

The Amendment 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***

The Amendment on becoming the Motion was **Carried** - (Minute No 622 refers)

***FOR VOTE - Unanimous***

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

**623**

**Cr D Holdom  
Cr B Longland**

**RESOLVED** that Council notes the August 2010 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

***FOR VOTE - Unanimous***

a19 [PR-CM] Development Application DA10/0382 for a Boundary Alteration at Lot 1 and 2 DP 129075; Lot 11, 12, 15, 16 DP 44722, Tyalgum Road, Eungella

624

Cr D Holdom  
Cr B Longland

**RESOLVED** that Development Application DA10/0382 for a boundary alteration at Lot 1 and 2 DP 129075; Lot 11, 12, 15, 16 DP 44722, Tyalgum Road, Eungella be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Titled "Plan of Proposed Boundary Alteration Lots 1 & 2 DP 129075 & Lots 11, 12, 15 & 16 DP 44722 Tyalgum Road, Eungella", Revision A prepared by Landsurv Pty Ltd and dated 21.05.10, 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. Prior to the issue of the subdivision certificate approval to operate the on-site sewage management facility under Section 68 of The Local Government act 1993 shall be obtained from Council.

[GENNS01]

4. The proponent shall not clear any threatened or endangered species.

[GENNS02]

**PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

5. 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]

6. 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.

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.

[PSC0835]

7. 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]

8. Prior to the issue of a Subdivision Certificate, the existing accesses servicing proposed Lots 20 and 21 shall be bitumen sealed from the existing bitumen edge of Tyalgum Road to the respective property boundaries, in accordance with Tweed Shire Council's Development Control Plan, Part A5 - Subdivision Manual and Council's "Driveway Access To Property – Part 1 – Design Specification".

[PSCNS01]

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

1. At the issue of subdivision certificate and in perpetuity, the land surrounding the existing dwelling(s) on proposed Lot 21, to a distance of 20 metres, shall be maintained 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'.

***Cr P Youngblutt left the meeting at 05:39 PM***

***FOR VOTE - Voting - Unanimous  
ABSENT. DID NOT VOTE - Cr P Youngblutt***

#### **REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES**

**20 [CNR-CM] Update of Coastal Hazard Lines**

**625**

**Cr D Holdom  
Cr J van Lieshout**

**PROPOSED** that Council endorses the following:

1. Adoption of the updated Tweed Coastal Hazard Lines for 2050 and 2100 finalised by the Water Research Laboratory in August 2010 for the purposes of coastal risk



management within its strategic and statutory land-use planning, in areas susceptible to coastal erosion.

2. The updated Tweed Coastline Hazard Lines for 2050 and 2100 take full operational effect by way of implementation in a new Section of the Tweed Development Control Plan.
3. In the interim period between the adoption of the Tweed Coastline Hazard Lines for 2050 and 2100 and the adoption of the Tweed Development Control Plan - Tweed Coastline Hazard DCP, a development application lodged after 21 September 2010 shall be subject to the assessment of the provisions of Council's currently adopted *Tweed Shire Coastline Management Plan* (June 2005).
4. Members of the public and property owners be made aware of these latest hazard line updates through notice in the Tweed Link, information made available on Council's web site, and through updated Section 149 Certificates.

***Cr P Youngblutt returned from temporary absence at 05:40 PM***

626

**AMENDMENT 1**

**Cr W Polglase  
Cr P Youngblutt**

**RESOLVED** that this item be deferred until such time the Tweed Development Control Plan - Tweed Coastline Hazard DCP has been adopted and exhibited by the end of March 2011.

Amendment 1 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***

627

**AMENDMENT 2**

**Cr K Milne  
Cr B Longland**

**PROPOSED** that Council defers this item for a workshop and it be brought back to the next Council meeting.

Amendment 2 was **Lost**

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

Amendment 1 on becoming the Motion was **Carried** - (Minute No 626 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**

**21 [CNR-CM] Tender Report -Panel of Providers for Bush Regeneration and Ecological Planning**

**DECLARATION OF INTEREST**

**Cr J van Lieshout** declared an Interest in this item, left the Chamber at 06.00 PM and took no part in the discussion or voting. The nature of the interest is that Cr J van Lieshout has a business relationship with one of the tenderers.

**628**

**Cr B Longland  
Cr W Polglase**

**RESOLVED** that:

1. The following tenders for EQ2010-047 - Panel of Providers for Bush regeneration and Ecological Planning be accepted for inclusion in Council's Panel of Providers for:
  - (i) Regeneration/Restoration of Council Managed Natural Areas; and
  - (ii) Ecological Planning and Assessment.

Regeneration of Natural Areas	Ecological Planning
Environmental Training & Employment Inc.	Environmental Training & Employment Inc.
Bushland Restoration Services	Bushland Restoration Services
Ecosure	Landmark
Gecko Regen	Ecosure
Technigro	GHD
Eddie Roberts	Australian Wetlands
Forest Restorations	Parsons Brinkerhoff
Madhima Gulgan	Biolink
Austspray	
Virida Sylvis	
Activeco	
Bowerbird	

2. The **ATTACHMENTS A & B** 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.

**FOR VOTE - Voting - Unanimous**  
**ABSENT. DID NOT VOTE - Cr J van Lieshout**

**Cr J van Lieshout returned from temporary absence at 06:01 PM**

**22 [CNR-CM] Kingscliff Community Playgroup**

**629**

**Cr D Holdom**  
**Cr B Longland**

**RESOLVED** that Council notes that the Kingscliff Community Playgroup withdraws its request for usage of the Kingscliff Amenities Hall.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**23 [CNR-CM] The Men's Shed - Bray Park Water Treatment Plant**

**630**

**Cr D Holdom**  
**Cr B Longland**

**PROPOSED** that:

1. Council approves entering into a lease with the Murwillumbah Men's Shed group for the decommissioned fluoride shed at the Bray Park Water Treatment Plant at Durroon Avenue, Bray Park being part of Lot 1 in DP 445752 for four terms of five years at a "peppercorn rent" (\$1.00) subject to the Men's Shed group:
  - (a) obtaining appropriate funding.
  - (b) obtaining development consent for the proposed activities of the Men's Shed at the premises.
2. All documentation be executed under the Common Seal of Council.

631

**AMENDMENT**

**Cr K Milne**  
**Cr B Longland**

**RESOLVED** that:

1. Council approves entering into a lease with the Murwillumbah Men's Shed group for the decommissioned fluoride shed at the Bray Park Water Treatment Plant at Durroon Avenue, Bray Park being part of Lot 1 in DP 445752 for four terms of five years at a "peppercorn rent" (\$1.00) subject to the Men's Shed group:
  - (a) obtaining appropriate funding.
  - (b) obtaining development consent for the proposed activities of the Men's Shed at the premises.
2. All documentation be executed under the Common Seal of Council.
3. Council advises the Murwillumbah Men's Shed group of Council's Donations Policy.

The Amendment was **Carried**

***FOR VOTE - Unanimous***

The Amendment on becoming the Motion was **Carried** - (Minute No 631 refers)

***FOR VOTE - Unanimous***

**24 [CNR-CM] 2010/2011 Fees & Charges - Stotts Creek Resource Recovery Centre (Clean Fill)**

632

**Cr B Longland**  
**Cr D Holdom**

**RESOLVED** that the disposal fee for clean fill be adopted at \$21.00 per tonne and included in Council's Fees and Charges Register.

The Motion was **Carried**

***FOR VOTE - Unanimous***

## REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

### 25 [EO-CM] Lot 23 DP 1058759 Parish of Cudgen - Road Closure Application

633

Cr D Holdom  
Cr J van Lieshout

**RESOLVED** that Council:

1. Does not object to the closure of the section of Crown Road reserve running east to west along the southern boundary of Lot 23 DP 1058759 at Round Mountain.
2. Does object to the closure of the section of Crown Road reserve running east to west along the southern boundary of Lot 23 DP 1958759.

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***

### 26 [EO-CM] Naming of Public Road - Chinderah

634

Cr B Longland  
Cr D Holdom

**RESOLVED** that:

1. Council adopts the name "*Bradshaw Place*" for naming purposes of the road that runs off Wommin Bay Road to the Cudgen Leagues Club at Chinderah; and
2. The naming of the public roads be gazetted under the provisions of the Roads (General) Regulation, 2000 and the Roads Act, 1993.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**27 [EO-CM] Lot 2 DP 1007610 Parish of Mooball - Road Closure Application**

**635**

**Cr B Longland  
Cr D Holdom**

**RESOLVED** that Council objects to the closure of the sections of Crown Road Reserve within Lot 2 DP 1007610 and within and south of Lot 17 DP 811942 at Stokers Siding.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**28 [EO-CM] Lot 8 DP 818543 Parish of Murwillumbah - Road Closure Application**

**636**

**Cr B Longland  
Cr D Holdom**

**RESOLVED** that Council objects to the closure of the Crown Road within Lots 7 and 8 DP 818543 at Zara.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**29 [EO-CM] Lot 5 DP 833683 Parish of Murwillumbah - Road Closure Application**

**637**

**Cr B Longland  
Cr D Holdom**

**RESOLVED** that Council objects to the closure of the Crown Road within Lot 5 DP 833683 at Zara.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**30 [EO-CM] Lot 1 DP 873009, Parish of Tyalgah - Road Closure Application**

**638**

**Cr B Longland  
Cr D Holdom**

**RESOLVED** that Council:-

1. Objects to the closure of the Crown Road north of Lots 10, 11 and 14 DP 755749 and Lot 1 DP 873009 at Tyalgah.
2. Does not object to the closure of the section of Crown road reserve east and south of Lot 2 DP 873009 at Tyalgah.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**31 [EO-CM] Lot 1 DP 565592 Parish of Burrell - Road Closure Application**

**639**

**Cr B Longland  
Cr D Holdom**

**RESOLVED** that Council objects to the closure of the Crown Road Reserve north of Lot 1 in DP 565592 however does not object to the closure of the north western section of the road reserve adjoining Lot 1 in DP 565592 subject to the north eastern section of the road remaining open as public road as shown in figure 3 of the report.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**32 [EO-CM] Lot 152 DP 755698 Parish of Condong - Road Closure Application**

**640**

**Cr B Longland  
Cr D Holdom**

**RESOLVED** that Council does not object to the closure of part of the road reserve east of Lots 152 and 155 DP 755698 and west of Lot 1 DP 781660 at Tumbulgum.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**33 [EO-CM] Lot 1 DP 612791, Parish of Murwillumbah - Road Closure Application**

**641**

**Cr B Longland  
Cr D Holdom**

**RESOLVED** that Council objects to the closure of the Crown Road within Lot 1 DP 612791 at Chillingham.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**34 [EO-CM] Lot 1 DP774820, Parish of Cudgen - Road Closure Application**

**642**

**Cr B Longland  
Cr D Holdom**

**RESOLVED** that Council:

1. Objects to the closure of the Crown Road reserve which runs along the eastern boundary and within Lot 1 DP 774820 and the section along the northern boundary of Lot 2 DP 590220 at Stotts Creek.
2. Does not object to the closure of the Crown Road reserve which runs through the southern part of Lot 28 DP 615931, and through Lot 11 DP 1014723 at Stotts Creek.

The Motion was **Carried**

***FOR VOTE - Unanimous***



**35 [EO-CM] Creation of Easement to Drain Water within Lot 400 DP 776483, 165 Darlington Drive Banora Point**

**643**

**Cr B Longland  
Cr D Holdom**

**RESOLVED** that all documents relating to the creation of the Easement to Drain Water variable width within Lot 400 DP 776483 be signed under the Common Seal of Council.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**36 [EO-CM] Lot 9 DP 803964 Parish of Chillingham - Road Closure Application**

**644**

**Cr B Longland  
Cr D Holdom**

**RESOLVED** that Council objects to the closure of the Crown Road north east and east of Lot 9 DP 803964 and east of Lot 10 DP 803964 at Hopkins Creek.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**37 [EO-CM] Lot 1 DP 134303 Parish of Tyalgah - Road Closure Application**

**645**

**Cr B Longland  
Cr D Holdom**

**RESOLVED** that Council objects to the closure of the Crown Road south of Lot 1 DP 134303 at Tyalgah.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**38 [EO-CM] Tweed Regional Aquatic Centre Lease**

**DECLARATION OF INTEREST**

Cr D Holdom declared a perceived significant, non-pecuniary Interest in this item, left the Chamber at 06:17 PM and took no part in the discussion or voting. The nature of the interest is that Cr D Holdom's spouse is employed as a Pool Attendant at the Tweed Regional Aquatic Centre.

**646**

**Cr W Polglase  
Cr J van Lieshout**

**RESOLVED** that:

1. Council declines to accept any tender in relation to EC2010-104 Tender for the Leased Management Rights of the Tweed Regional Aquatic Centre.
2. The Tweed Regional Aquatic Centre and aquatic programs be managed by Council through a mixture of permanent and casual labour and licence and contract agreements.
3. ATTACHMENT A 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 - Voting - Unanimous  
ABSENT. DID NOT VOTE - Cr D Holdom***

**39 [EO-CM] Floodplain Management Program Grant Funding**

**647**

**Cr J van Lieshout  
Cr P Youngblutt**

**RESOLVED** that Council formally accepts the grant offer of \$70,000 for floodplain management projects from the Minister for Climate Change and Environment under the State Floodplain Management Program 2010/11.

**Cr D Holdom returned from temporary absence at 06:26 PM**

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**

**40 [EO-CM] Natural Disaster Resilience Grant Scheme funding 2010/2011**

**648**

**Cr J van Lieshout  
Cr P Youngblutt**

**RESOLVED** that Council formally accepts the following grant funding in accordance with the Natural Disaster Resilience Grant Scheme funding agreement and provides the necessary amount to match the Government grant from unexpended loan funds of \$40,000 and a further allocation of \$30,000 at the September Quarterly Budget Review:

<b>Grant Program</b>	<b>Project</b>	<b>Funding Ratio</b>	<b>Total Grant Funding</b>	<b>Required Council Funding</b>
Natural Disaster Resilience Grant Scheme (Commonwealth and State funding)	Tweed Shire Flood Risk Floor Level Survey	1:1:1	\$140,000	\$70,000

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**

**41 [EO-CM] Adoption of Section 94 Plan No. 15 - Developer Contributions for Community Facilities Version 6**

**649**

**Cr J van Lieshout  
Cr P Youngblutt**

**RESOLVED** that Council

1. Approves Draft Section 94 Plan No. 15 – Developer Contributions for Community Facilities (Version 6) to repeal and replace the existing version in

accordance with Clause 31 of the Environmental Planning & Assessment Regulations 2000;

2. Gives Public Notice in the Tweed Link of Council's decision specifying that the amended Version 6 of the Plan (CP 15) comes into effect on the date of the notice.

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***

**42 [EO-CM] Amendments to Development Control Plan Section A3 - Development of Flood Liable Land**

**650**

**Cr J van Lieshout  
Cr P Youngblutt**

**RESOLVED** that Council publicly exhibits the Development Control Plan Section A3 - Development of Flood Liable Land flood map amendments for a period of 28 days.

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***

**43 [EO-CM] 2010/2011 Fees and Charges - Stormwater Drainage Application Fees for Erosion and Sediment Control**

**651**

**Cr J van Lieshout  
Cr P Youngblutt**

**RESOLVED** that the amendment of \$2.67 per 1000m<sup>2</sup> of lot area (minimum \$62 Maximum \$3,100.50) be applied for Item 131 - Stormwater Drainage Application - Erosion/Sediment Control in the Fees and Charges Schedule for 2010/2011.

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***

**44 [EO-CM] Minutes of the Local Traffic Committee Meeting - B-Double Route held 19 August 2010**

**652**

**Cr J van Lieshout  
Cr P Youngblutt**

**RESOLVED** that the application for extension of the B-Double route along Pottsville Road, West Pottsville from the intersection of Cudgera Creek Road for a further 1.4km to a private driveway located at 853 Pottsville Road be approved.

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**

**45 [EO-CM] Tweed Road Contribution Plan 5 Year Rolling Works Program - Addition of Kennedy Drive Four-laning**

**653**

**Cr J van Lieshout  
Cr P Youngblutt**

**RESOLVED** that Council adopts the Proposed 5 Year Rolling Works Program, funded from the CP No. 4 as listed below:

Year	TRCP 5 Year Rolling Construction Program TRCP Project
2010/11	(6&8) Cobaki Parkway from Boyd St overpass to town centre (by developer)
	(36) Kirkwood Rd Construction - Highway to Falcon Way excl bridge over highway
2011/12	(36) Kirkwood Rd Construction - Highway to Falcon Way excl bridge over highway
	(8) Cobaki Parkway town centre to Sandy Lane
	(20a) Kennedy Drive Upgrade - Rose Street to Cobaki Bridge
2012/13	(29a) Kennedy Drive - Rose Street to Cobaki Bridge (59c) Leisure Drive upgrade - Winders Place to Eucalyptus Drive
2013/14	(112k) Old Lismore Road upgrade between new subdivisions
	(112b) West End Street extension
	(11) Cobaki Parkway Sandy Lane Southern intersection to Piggabeen Creek

2014/15	(112k)	Old Lismore Road at North Arm Road
	(13)	Cobaki Parkway Bridge over Piggabeen Creek

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**

#### **ADJOURNMENT OF MEETING**

Adjournment for dinner at 6.37pm.

#### **RESUMPTION OF MEETING**

The Meeting resumed at 7.33pm

#### **46 [EO-CM] NSW Government's Changes to Developer Contributions**

**654**

**Cr D Holdom  
Cr B Longland**

**RESOLVED** that Council:

1. Writes to the Minister for Planning:
  - (a) Acknowledging the response the Government has taken to date to some issues previously raised regarding the Developer Contributions Cap and;
  - (b) Outlining ongoing concerns particularly the need to cost index the cap, and redefine "Essential Infrastructure", and their potential if not further addressed, to undermine Council's comprehensive and orderly strategic and infrastructure planning and future service provision for Tweed residents and businesses.
2. Seeks an urgent meeting with the Minister and senior management of the NSW Department of Planning to discuss the concerns in more detail.
3. Maintains its current position on the growth cap on the existing Greenfield sites – Kings Forest, Cobaki Lakes and The Rise.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**47 [EO-CM] Extension of Turnock Street, Kingscliff from Elrond Drive to the Tweed Coast Road and Crescent Street**

**655**

**Cr D Holdom  
Cr B Longland**

**RESOLVED** that Council advises Knobel Consulting:

1. The concept of extending Turnock Street from Elrond Drive roundabout to the Tweed Coast Road and on to Crescent Street, Kingscliff, is supported from a network connectivity point of view.
2. Support for the project as outlined in Knobel Consulting concept plans is, however, subject to the submission of a formal Development Application, planning and environmental assessment and receipt of approval.

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 PLANNING AND REGULATION**

**13 [PR-CM] Development Application DA10/0066 for a Two (2) Lot Subdivision at Lot 10 DP 1034435 No. 285 Clothiers Creek Road, Nunderi**

**656**

**Cr D Holdom  
Cr W Polglase**

**RESOLVED** that Development Application DA10/0066 for a two (2) lot subdivision at Lot 10 DP 1034435 No. 285 Clothiers Creek Road, Nunderi be approved subject to the following conditions: (Option2 pg. 177)

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and  
Plan No 17891D Sheet 1 Revision A Ref. No. M30974, prepared by B & P Surveys Consulting Surveyors and dated 6 May 2010  
Plan No 17891D Sheet 2 Revision A Ref. No. M30974, prepared by B & P Surveys Consulting Surveyors and dated 6 May 2010,  
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 approved modifications to any existing public utilities situated within or adjacent to the subject property.

[GEN0135]

4. In order to preserve the natural habitat of the site and surrounding areas, no occupant, tenant, lessee or registered proprietor of proposed Lot 11 or part thereof may own or allow to remain on the site or any part thereof any dog (excluding any "assistance animal" as defined under the Companion Animals Act 1998 (NSW) and referred to in Section 9 of the Disability Discrimination Act, 1992 (Cth)).

Note: "assistance animal" means an animal (Disability discrimination-guide dogs, hearing assistance dogs and trained animals) of the Disability Discrimination Act 1992 of the Commonwealth, but does not include a working dog. Note: That section refers to a guide dog, a dog trained to assist a person in activities where hearing is required and any other animal trained to assist a person to alleviate the effect of a disability.

5. No approval is granted for the removal of any Koala food or Koala use trees being Blackbutt (*Eucalyptus pilularis*), Brush Box (*Lophostemon confertus*), Pink Bloodwood (*Corymbia intermedia*) and Grey Ironbark (*Eucalyptus siderophloia*). These trees must be protected throughout the development site during construction works and operational phases of the development.

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

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. 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 Development Design and Construction specifications.

#### **RURAL ACCESS**

- (a) The existing gravel track providing access to the dwelling site on proposed lot 11 shall be upgraded to a 3.0m wide, 150mm compacted gravel pavement with a two(2) coat bitumen seal from the junction with the existing bitumen driveway to the dwelling site on proposed lot 11.

[PCC0875]

8. Details from a Structural Engineer are to be submitted to the Principal Certifying Authority for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the sewer main or other underground infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate.



[PCC0935]

9. 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
    - stormwater drainage
    - water supply works
    - accessway
    - sedimentation and erosion management plans
    - location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure)

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]

10. 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]

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

11. Prior to start of works the PCA is to be provided with a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and be supported by Geotechnical assessment of the founding material.

[PCW0745]

### **DURING CONSTRUCTION**

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

[DUR0005]

13. 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]

14. 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.

$L_{Aeq, 15 \text{ min}}$  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.

$L_{Aeq, 15 \text{ min}}$  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]

15. 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]

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

[DUR0815]

17. 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]

18. 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]

19. 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]

20. 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]

21. 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]

22. 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]

23. 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) Final inspections - on maintenance
- (b) 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]

24. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall
-

after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation/Subdivision Certificate.

[DUR1955]

25. 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]

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]

27. Erosion and sediment control measures shall be placed and maintained to the satisfaction of the General Manager or his delegate.

[DURNS01]

28. It is a condition of an approval to install, construct or alter a sewage management facility that the facility is not used (or used as altered) until the Council has given the applicant for approval notice in writing that it is satisfied that the facility has been installed, constructed or altered in substantial accordance with the approval.

[POC1025]

29. 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]

#### **PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

30. 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]

31. 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: 1.2 ET @ \$10709 per ET \$12,850.80

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]

32. 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:

6.5 Trips @ \$1601 per Trips	\$10407
(\$1455 base rate + \$146 indexation)	
S94 Plan No. 4	
Sector10_4	

(b) Open Space (Casual):

1 ET @ \$526 per ET	\$526
(\$502 base rate + \$24 indexation)	
S94 Plan No. 5	

(c) Open Space (Structured):

1 ET @ \$602 per ET	\$602
(\$575 base rate + \$27 indexation)	
S94 Plan No. 5	

(d) Shirewide Library Facilities:

1 ET @ \$792 per ET	\$792
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- (\$792 base rate + \$0 indexation)  
S94 Plan No. 11
- (e) Eviron Cemetery:  
1 ET @ \$120 per ET \$120  
(\$101 base rate + \$19 indexation)  
S94 Plan No. 13
- (f) Extensions to Council Administration Offices  
& Technical Support Facilities  
1 ET @ \$1759.9 per ET \$1759.90  
(\$1759.9 base rate + \$0 indexation)  
S94 Plan No. 18
- (g) Regional Open Space (Casual)  
1 ET @ \$1031 per ET \$1031  
(\$1031 base rate + \$0 indexation)  
S94 Plan No. 26
- (h) Regional Open Space (Structured):  
1 ET @ \$3619 per ET \$3619  
(\$3619 base rate + \$0 indexation)  
S94 Plan No. 26

[PSC0175]

33. 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]

34. All retaining walls in excess of 1.2m are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the subdivision certificate application and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

In addition to the above certification, the following is to be included in the Section 88B Instrument to accompany the final plan of subdivision.

- (a) A restriction to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.3m in vertical height within a zone adjacent to the wall that is equal to the height of the wall.
- (b) Each lot burdened and or benefited by a Type 1 wall as defined in AS4678-2002 Earth Retaining Structures, shall contain a restriction to user advising the landowner of the need to maintain the wall in accordance with that standard.

Tweed Shire Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

[PSC0785]

35. 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]

36. 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]

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 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]

38. 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 - Water Reticulation

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]

39. Prior to the issue of a Subdivision Certificate, a properly dimensioned plan shall be lodged with Council showing the relative position of existing fences, road formation and boundaries. Any encroaching road boundary fence is to be relocated to the correct alignment prior to issuing a Subdivision Certificate. Any road widening deemed necessary following submission of the plan shall be dedicated at no cost to Council.

[PSC0945]

40. 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]

41. The production of written evidence from the local electricity supply authority certifying that the reticulation of overhead electricity (rural subdivisions) and energising has been provided to a point no less than 45 metres from the front boundary of each allotment.

Should any electrical supply authority infrastructure (sub-stations, switching stations, cabling etc) be required to be located on Council land (existing or future), then Council is to be included in all negotiations. Appropriate easements are to be created over all such infrastructure, whether on Council lands or private lands.

Compensatory measures may be pursued by the General Manager or his delegate for any significant effect on Public Reserves or Drainage Reserves.

[PSC1175]

42. Prior to the issue of the subdivision certificate the applicant shall obtain from Council approval to operate the existing on-site sewage management system servicing the dwelling on proposed lot 12 under Section 68 of the Local Government Act 1993.

[PSCNS01]

43. 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) Restriction as to user regarding no dogs or cats. Burden: Proposed Lot 11 (new lot created on the subject site). Benefit: Tweed Shire Council.

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.

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



1. Landscaping surrounding the existing dwelling is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

**657**

**Cr P Youngblutt  
Cr W Polglase**

**RESOLVED** that an extension of 5 minutes be granted to Cr D Holdom.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**658**

**Cr P Youngblutt  
Cr W Polglase**

**RESOLVED** that a further extension of 5 minutes be granted to Cr D Holdom.

The Motion was **Carried**

***FOR VOTE - Unanimous***

The Motion was **Carried**

***FOR VOTE - Unanimous***

## **REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES**

**48 [TCS-CM] Draft Community Strategic Plan 2011/2021**

**659**

**Cr D Holdom  
Cr J van Lieshout**

**RESOLVED** that, in accordance with Section 402 of the Local Government Act 1993, the:

1. Draft Community Strategic Plan 2011/2021 be endorsed and placed on public exhibition for a period of 42 days, commencing 27 September 2010 to 8 November 2010.
2. Engaging the Community Strategy and the associated terms of community engagement be adopted.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**49 [TCS-CM] Monthly Investment Report for Period Ending 31 August 2010**

**660**

**Cr B Longland  
Cr D Holdom**

**RESOLVED** that in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at 31 August 2010 totalling \$153,720,809 be received and noted.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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

**50 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held 19 August 2010**

**661**

**Cr B Longland  
Cr J van Lieshout**

**RESOLVED** that the:-

1. Minutes of the Local Traffic Committee Meeting held Thursday 19 August 2010 be received and noted; and
2. Director's recommendations be adopted as follows:

#### **EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:**

##### **A1 [LTC] Sands Street, Tweed Heads**

That:

1. 'No Stopping' signs be installed on the eastern side of Sands Street , approximately 10m south of the Bay Street intersection.
2. 2 hour parking signage (9.00am to 5.00pm Mon - Fri and 9.00am to 12.00 noon Sat) be installed along the eastern side of Sands Street from the 'No Stopping' signage to 10m before Empire Lane.

3. 'No Stopping' signage be installed on the western side of Sands Street, approximately 10m north of the Empire Lane intersection.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**51 [SUB-TRC] Minutes of the Tweed River Committee Meeting held Wednesday 11 August 2010**

**662**

**Cr B Longland  
Cr J van Lieshout**

**RESOLVED** that the:

1. Minutes of the Tweed River Committee Meeting held Wednesday 11 August 2010 be received and noted; and
2. Director's recommendations be adopted as follows:

**EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:**

***A2. Presentation on Erosion and sediment Control at Cobaki Lakes Development***

That Council staff develop a comprehensive report on what resources are required to minimise pollutant and nutrient export from Cobaki Estate, or any other source, entering Cobaki and Terranora Broadwaters to achieve the objectives of the Cobaki/Terranora Broadwaters Coastal Zone Management Plan.

***CI2. Sailability on Tweed***

As per the Committee's recommendation being, that Council advises Sailability on Tweed that:

- 1) Council supports in principle the establishment of a site shed but that the proposed current site conflicts with the historical location of the original settlement in Tweed, "Tarranora".
- 2) It works with NSW Land and Property Management Authority, in consultation with Council, to locate an appropriate site.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**52 [SUB-TRRMAC] Minutes of the Tweed River Regional Museum Advisory Committee Meeting held Thursday 15 July 2010**

**663**

**Cr B Longland  
Cr J van Lieshout**

**RESOLVED** that the:

1. Minutes of the Tweed River Regional Museum Advisory Committee Meeting held Thursday 16 July 2010 be received and noted; and
2. Director's recommendations be adopted as follows:

**EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:**

**2. *Museum Collection's Assistant***

That Tweed Shire Council seriously considers seeking additional funds to increase the number of days allocated to the Collection's Assistant position to care for the collection held on the three sites.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**53 [SUBCOM] Minutes of Subcommittees/Working Groups for Distribution-Not Requiring a Council Decision**

The Minutes of Sub-committees not requiring a decision of Council, as circulated, were received and noted.

**ORDERS OF THE DAY**

**54 [NOM-Cr B Longland] Museums**

**664**

**Cr B Longland  
Cr D Holdom**

**RESOLVED** that in view of Council's 2004 Memorandum of Understanding with the combined Historical Societies involving Council's 7-Year Plan commitment to a purpose-built Museum at Tweed Heads and the extension of the Murwillumbah Museum, could a comprehensive report be brought forward on the following:

- the scope for revisiting the design and cost estimates for both projects with the architect with a view to identifying substantial savings. In the case of the Murwillumbah project, an amount of approximately \$2million being a more realistic estimate;
- how it is intended that the \$1million Museum commitment from the Federal Government will be utilised before its expiry on 30 June 2011;
- assuming significant cost reductions can be found, plans for the urgent completion of a Development Application for the Murwillumbah Museum extensions in order that funding opportunities can be exploited as and when they become available;
- reassurance of Council's commitment to these projects (and possible planned commencement dates), for the dedicated volunteer Historical Society workforce involved in the acquisition, care, maintenance and display of the valuable collection that is now in the ownership of Council.

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**

## 55 [NOM-Cr Holdom] Telecommunications Towers

665

**Cr D Holdom**  
**Cr W Polglase**

**RESOLVED** that in conjunction with the resolution on *Development Applications for the Installation of Telecommunications Networks* 18 May 2010 (as shown corrected on the 15 June 2010)

*Minute Number 362*

**RESOLVED** that where Tweed Shire Council is the consent authority for the installation of Telecommunication networks the provider/ applicant/ proponent be requested to undertake the following community consultation before submitting any Development Application(s) for the installation of Mobile Towers and all supporting equipment within the shire; advertisements in the *Tweed Link* in two (2) concurrent publications, two (2) independent newspapers, a community meeting held within the area that could be affected by the proposal, letter box drops to the surrounding homes/businesses etc that could be affected, door knocks to the surrounding area that could be affected and that this preliminary consultation forms part of the Development Application (as supplementary written information and includes copies of all correspondence - inwards and outwards regarding the consultation process undertaken), when finally submitting the Development Application to Council for review/processing/consideration.

*REPLACE THE WORD "CONCURRENT" WITH THE WORD  
"CONSECUTIVE"*

Council advise all provider's / applicant's / proponent's that the Tweed Shire Council Aboriginal Advisory Committee is to be included in all of the preliminary consultation as per the original resolution of Council 18 May 2010 and that a full report on that consultation and outcomes is to be submitted with the Development Application/s.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**56 [NOM-Cr D Holdom] Workshop-Department of Environment, Climate Change and Water NSW 2010 Border Ranges Rainforest Biodiversity Management Plan - NSW and Queensland, Department of Environment, Climate Change and Water NSW, Sydney**

**666**

**Cr D Holdom  
Cr K Milne**

**RESOLVED** that the General Manager organises a workshop for Councillors on the Department of Environment, Climate Change and Water NSW 2010 Border Ranges Rainforest Biodiversity Management Plan - NSW and Queensland, Department of Environment, Climate Change and Water NSW, Sydney, similar to the public workshop held on 4 September 2010 at the Canvas and Kettle Restaurant, Murwillumbah.

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***

**57 [NOM-Cr K Skinner] Youth - Off Road Motor Cycle Track**

**667**

**Cr K Skinner  
Cr W Polglase**

**RESOLVED** that Council signals its in principle support for the establishment of an off road motor cycle track as a further means to support youth development in the Tweed and that a workshop be held to enable staff to brief Councillors on issues, constraints and opportunities in developing such a facility and the role that Council could play in that process.

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**

**58 [NOM-Cr K Milne] Tweed Tourism and Ecological Economics**

**668**

**Cr K Milne**  
**Cr B Longland**

**PROPOSED** that Council requests the newly appointed Tourism and Economic arms of Tweed Tourism Board to include in their future strategies ways to encourage a more sustainable local economy.

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**

**59 [NOM-Cr K Milne] Reward System for Community Incident Reports for Tree Clearing**

**669**

**Cr K Milne**  
**Cr K Skinner**

**RESOLVED** that Council brings forward a report to consider adopting a reward system, similar to the reward for graffiti reports, for community members that report tree clearing incidents, where such a report results in a fine or prosecution.

The Motion was **Carried**

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

**60 [NOM-Cr K Milne] Workshop - Safer Communities Alliance**

**670**

**Cr K Milne  
Cr J van Lieshout**

**RESOLVED** that Council invites the Safer Communities Alliance to a workshop in the earliest possible timeframe to discuss the possibility of implementing an extended bus service to Pottsville now that the Gold Coast Council has agreed to fund the extension of the bus service to Kingscliff.

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***

**61 [NOM-Cr K Milne] Further Consultation and Review Kings Forest and Cobaki Lakes**

**671**

**Cr K Milne  
Cr B Longland**

**PROPOSED** that Council writes to the Ministers for Planning and the Environment to request that:

1. An independent review of Kings Forest and Cobaki Estate be undertaken by suitably qualified experts in sustainable planning, such as the Institute of Sustainable Futures, UTS, to achieve leading best practice planning for the future in these highly significant environments.
2. Further community consultation by the State government be carried out in the form of public forums to better involve the Community in these major town planning initiatives and opportunities.

The Motion was **Lost**

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

**62 [NOM-Cr K Milne] Chinderah Heritage Fig Tree**

This item was withdrawn.



**a62 [NOM-Cr D Holdom] Banning of all Election Advertising**

**672**

**Cr D Holdom  
Cr K Skinner**

**PROPOSED** that the General Manager investigates and reports back to Council on the banning of all election advertising via corflute signs/banners/mobile advertising/posters etc within the Tweed Shire Local Government area.

**PROCEDURAL MOTION**

**673**

**Cr B Longland**

**RESOLVED** that the Motion be put.

The Procedural Motion was **Carried**

**FOR VOTE - Unanimous**

The Motion was **Lost**

**FOR VOTE - Cr D Holdom, Cr K Milne**

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

**QUESTION TIME**

**63 [QON-Cr D Holdom] Tree Clearing, Pottsville**

Councillor D Holdom asked can the Director Planning and Regulation please advise Council of the tree clearing within an area of Pottsville recently and also advise Council of the parameters for legal clearing on private properties, who is the consent authority for same, under what Act one must apply for permission to fell Native Vegetation and what legal role Council Officers have under these circumstances?

The Director Planning and Regulation responded:

*"I understand that you are referring to a complaint first received by Council officers on 23 August 2010 from the owner of a property directly adjoining the property described as Lot 8 DP 1035916 Cudgera Creek Road Cudgera Creek, to be referred to in this response as the subject premises.*

*The complaint raised concerns that vegetation clearance was being undertaken by contractors acting on behalf of the owners of the subject premises in various locations, with the main concerns being the alleged unauthorised removal of vegetation along a common boundary with the subject premises.*

*In response to these concerns, Council officers undertook a site inspection of the subject premises on 31 August and met with the owners. A follow-up meeting was held between the Council officers and the owners at Council on 2 September. The officers also met on site and have been in contact with the complainant about the emerging actions. Council officers also organised for its surveyors to undertake a site survey to confirm the location of the common boundary between the complainant and the owners of the subject premises.*

*From the various site inspections and questioning of the relevant parties, the officers were of the belief that the owners of the subject premises, through their contractors, were generally undertaking vegetation clearance in various locations for the main purpose of fence construction and general property maintenance. Under Council's current LEP and TPOs, this activity would generally not require a development application for Council to assess, and thereby Council has no substantial enforcement role.*

*It was also acknowledged that exemptions under the Native Vegetation Act does allow for this activity may be undertaken without the approval of the relevant state authority, the Department of Environment, Climate Change and Water (DECCW), subject to certain controlled conditions. This process is referred to under the Act as a Routine Agricultural Management Activity being Boundary Fencing, whereby 6m either side of a property boundary may be cleared as an exemption under that Act.*

*However, whilst the activity undertaken along the common boundary with the complainant appears to be in accordance with the Act, it was evident from the officers' investigations of clearance activity in other parts of the subject premises, including those works on Council's road reserve, that numerous identified threatened plants may have been impacted upon.*

*For that reason, Council officers have referred this matter to DECCW for further investigation as the responsible compliance authority in this instance, and from the recent meeting with the owners of the subject premises, the following agreed actions will be undertaken:*

- It was identified that some of the new fencing has been erected on Council's road reserve. In this regard, it appears that the works Council's Works Unit has been made aware of this action, and will be investigating further.*
- It was agreed that no more vegetation clearance on their site would take place until a full site survey had been prepared.*
- Given the officers' concerns for the possible damage to sensitive vegetation, the matter has been referred to DECCW to investigate in terms of the Threatened Species and Conservation Act. In this regard, the owners were provided with the mapping and identification of the sensitive vegetation on their site.*
- Any substantial removal of camphor laurel from the site could require a development application.*
- In terms of the fencing constructed along the common boundary with the complainant's property, it appears evident from the recent Council survey that*

*the common boundary was quite consistent with the line of camphor laurel trees that were removed. The owners claimed that they had verbal discussions with the complainants prior to the works being undertaken, and they believed that they were proceeding in a legitimate manner. Nonetheless, they acknowledged the complainant's concerns, and agreed to contact her to work out a common agreement for any further common boundary works.*

- *The complainant has since advised that permission was never granted to the owners of the subject premises for the fencing and related vegetation clearance works. From discussions with the owners of the subject property, it appears that they were of the understanding that the works would be carried out in a legitimate manner, and it appears that the contractors may have gone beyond their initial brief.*
- *The officers are awaiting a written response from the owners of the subject premises to verify agreement to the above actions.”*

## **CONFIDENTIAL COMMITTEE**

**674**

**Cr D Holdom  
Cr W Polglase**

**RESOLVED** that Council resolves itself into a Confidential Committee 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 had excluded the press and public from the whole of the Committee Meeting because, in the opinion of the Committee, publicity of the proceedings of the Committee would be prejudicial to the public interest, by reason of the confidential nature of the business to be transacted, and made the following recommendations to Council:

## REPORTS THROUGH GENERAL MANAGER IN COMMITTEE

### REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

#### 1 [EO-CM] Naming of Park at Mooball

##### 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 49

That Council calls for comment regarding the naming of the park adjacent to the railway crossing in Mooball "Bernadette Kelly Park" in accordance with Council's park naming guidelines.

The Motion was **Carried**

***FOR VOTE - Unanimous***

## REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES IN COMMITTEE

#### 2 [TCS-CM] Records Storage Proposal

##### REASON FOR CONFIDENTIALITY:

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

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

#### C 50

That Council:

1. Enters into a 6 month option to purchase the land at 24 Honeyeater Circuit, South Murwillumbah comprised in Lot 212 in DP 1122768 for the price referred to in the body of the report;

2. Calls tenders for the design and construction of a three unit building on the subject site;
3. Considers a further report once all costs are identified;
4. Advises the Vendor that should Council exercise the option then the Contract will be subject to Council obtaining Development Consent within 6 months from the date of exchange of Contracts; and
5. All documentation is executed under the Common Seal of Council.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**675**

**Cr D Holdom  
Cr P Youngblutt**

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

The Motion was **Carried**

***FOR VOTE - Unanimous***

There being no further business the Meeting terminated at 8.50pm.



**Minutes of Meeting Confirmed by Council  
at Meeting held .....**

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**Chairman**

