

ATTACHMENT 1
TWEED SHIRE COUNCIL ats LENEN PTY LTD
LAND AND ENVIRONMENT COURT No 10689 OF 1997 -
CONSENT S96/135 AND DEED OF AGREEMENT

002711

Confidential communication

449
Mr Frank Wilson
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17 December 1998

Dear Frank

Lenen Pty Ltd v Tweed Shire Council
Proceedings No 10686 of 1997 and 30386 of 1998

We wish to advise that Justice Talbot made the following orders yesterday regarding Lenen's appeal to the Land and Environment Court against Tweed Shire Council's deemed refusals of its' development application and subdivision application:

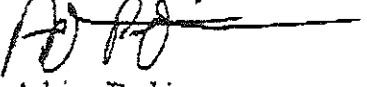
- 1 Consent be granted to amended development consent S196/35 subject to the conditions attached;
- 2 Consent be granted to Subdivision Application No. GS4/96/135 Pt 5 subject to the conditions attached; and
- 3 No order as to costs

Please see attached copy of development and subdivision conditions pertaining to both consents. Justice Talbot and Mr Webster were forthright in their praise of Lenen for negotiating a satisfactory development which would meet the needs of the community.

We wish to thank you for your instructions in this matter and congratulate you on a successful outcome.

Kind Regards

Yours sincerely


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TWEED SHIRE COUNCIL ats LENEN PTY LTD
LAND AND ENVIRONMENT COURT NO. 10686 OF 1997

A. Pursuant to Section 91AB(1) of the Environmental Planning and Assessment Act, 1979 (as amended) Consent No. S96/135 is granted for:-

- i. The subdivision of the Land into 14 lots as shown generally on the Subdivision Plan.
- ii. The carrying out of Stage 1 works generally in accordance with the conditions of this consent.
- iii. The development of the management lots for the purposes of low and medium density residential, retail, commercial and tourist development together with associated and related uses and facilities generally in accordance with the Development Plan.

General

1. The total population yield from the development of the Management Lots in accordance with the further development consents referred to in Condition 2 shall be based upon the following estimates:-

Lots	Population
1	550
2	620
3	1100
4	700
5	1520
6	400
7	710
Total	5600

2. Pursuant to Section 91AB(2) of the Act further development of the Management Lots for any of the purposes referred to in paragraph A(iii) of this consent shall not be carried out except by means of a further development consent or consents.
3. The development shall be carried out generally in accordance with the Development Plan, except where varied by these conditions.
4. This consent is subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the Land.
5. No soil, sand, gravel, clay or other material shall be disposed of off the Land.

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6. Any damage caused to existing public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to release of any linen plan of subdivision.
 7. The subdivision of the Land the subject of this consent shall be carried out generally in accordance with Development Control Plan No. 16 - Subdivisions Manual in so far as it is applicable to the Stage 1 works.
 8. There shall be executed on the linen plan of subdivision any necessary easements for services, rights of carriageway and restrictions as to user as may be necessary for Stage 1 under Section 88B of the Conveyancing Act including the following:-
 - i. Easements for water supply as identified by DCP 16 Subdivision Manual
 - ii. Easements to drain sewerage as identified by DCP 16 Subdivision Manual
 - iii. The prohibiting of direct vehicular access to each lot from the relocated Coast Road other than via approved junctions;
 - iv. The prohibiting of the alteration of the finished ground levels of the acoustical bund within 1 metre of the boundary of the Management Lots and the relocated Coast Road;
 - v. Right of carriageway and easement for services over the formation of the existing Coast Road between the north west corner of the Narui coastal site to the northern boundary of the Land. The Council must surrender its entitlement under any such right of carriageway and/or easement as soon as reasonably practicable after an approved alternative route is dedicated and constructed to a suitable standard;
 - vi. The Stage 1 linen plan of subdivision and shall create easements for drainage on each management lot and to accommodate the alternative Water Quality Management system. The Part XII Engineering Plans for Stage 1 shall identify the size and location of the easements to the satisfaction of the Director of Engineering Services.

Pursuant to Section 88BA of the Conveyancing Act (as amended) any Instrument creating any right of carriageway and/or easement to drain water shall make provision for maintenance of the right of carriageway and/or easement by the Council.

Subject to the provisions of Condition 8(v), the Section 88B Instrument shall make provision for amendment, revocation or variation of any restriction required by this Condition only with the approval of Council.

9. Where any construction work is on or adjacent to public roads, parks and drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

10. Prior to release of the linen plan of subdivision Council's standard "Assets Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council.
11. Prior to commencement of any work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director, Development Services. The sign shall remain in place until final release of the Stage 1 linen plan of subdivision.

Contributions

12. The following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan shall be payable prior to release of the linen plan of subdivision. These charges shall remain fixed for a period of 12 months from the date of this consent and thereafter shall be in accordance with the rates set forth in the edition of the relevant Section 94 Plan current at the date of payment of the Stage 1 linen plan of subdivision.
 - a. Tweed Road Contribution Plan: 7 lots @ \$2394/lot \$16,758.00
 S94 Plan No. 4 (Version 4.0)
 Sector 7 - Mixed uses including residential and tourist
 - i. The additional 10m wide road reserve width to be dedicated from the new bridge over Cudgen Creek to the southern boundary of the Land shall be valued at the date of consent and on the basis that the land is zoned "open space" and the value of this land shall be credited against the contribution required by this condition. The land shall be valued by a valuer to be agreed between the parties and if there is no agreement, by a valuer appointed by the President of the Australian Property Institute.
 - b. Street Trees: 7 lots @ \$42.90 \$300.30
 S94 Plan No. 6
 - c. Shire Wide Library Facilities: 7 lots @ \$300/lot \$2,100.00
 S94 Plan No. 11
 - d. Eviron Cemetery/Crematorium Facility: 7 lots @ \$85.00 \$595.00
 S94 Plan No. 13
 - e. Emergency Facilities (Surf Lifesaving): 7 lots @ \$80.00 \$560.00
 S94 Plan No. 16
 - f. Council Administration Offices and Support Facilities: 7 lots @ \$344.81 \$2,413.67
 S94 Plan No. 18

g. Kings Beach

S94 Plan No. 19: 7 lots @ \$⁶⁴⁰~~xxx~~

To be completed following adoption of the Plan on 14/12/98)

4/4
\$xxx

13. A certificate of compliance under Part 3 Division 2 of the Water Supply Authorities Act 1987 is to be obtained to verify that the necessary requirements for the supply of water and sewerage to the development has been made with the Council before subdivision linen plans are released.

The current contributions are as follows:-

Water: 7 lots @ \$3350.00
Sewer: 7 lots @ \$2770.00

\$23,450.00

\$19,390.00

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

Roads/Streets - Stage 1

14. The following roadworks shall be carried out at no cost to Council in accordance with engineering plans for the Stage 1 works to be submitted and approved PRIOR to work commencing:
- (i) (a) Construction and dedication of the relocated Coast Road from the new bridge over Cudgen Creek to the existing road formation to the south, generally as indicated on Figures 3 and 4 of the report titled "Statement of Evidence - Report on Road Infrastructure, Power and Telecommunications Provisions, Lenen Pty Ltd", September 1998 prepared by PN Casey, subject to condition 14(b);
 - (b) The road reserve width shall be a minimum of 40m and the relocated Coast Road cross section shall comprise a 13m formation width, 11m asphaltic concrete seal built to regional road standard. The road formation is to be located such that the western boundary of the road is not closer than 20m to the eastern bank of Cudgen Creek. Any application under Part XII of the Local Government Act 1919 shall be required to demonstrate that the widening of the road reserve on the eastern side shall be adequate to accommodate this condition and all necessary engineering infrastructure and pedestrian pathways to suit the ultimate road formation requirements as generally indicated in Figure 4 of the "Statement of Evidence Report on Infrastructure, Power and Telecommunications Provisions".
 - (c) In particular provision shall be made as follows: (This condition does not apply to active open space lots 9, 10 and 11)

- * A bund on or east of the eastern existing road reserve boundary shall be constructed generally at a level of 1 metre above the finished surface level of the Coast Road with a minimum crest width of 1 metre.
 - * A landscape buffer 2m wide no steeper than 1 in 4 west of the eastern road reserve boundary.
 - * A services corridor 2m wide with no greater cross fall than 1 in 20 west of the landscape buffer.
 - * A drainage swale of adequate widths to meet the Q100 design capacity with associated underground pipe work, the batters of which are not to exceed 1 in 4 slope between the services corridor and the road corridor.
 - * A road corridor appropriate to satisfy the required 4 lane facility with allowance for the ultimate tapers and deceleration lanes for the 3 intersections in their ultimate configuration.
 - * Road batters on the western embankment at a slope not greater than 2:1 stabilised with native grasses and groundcover.
 - * Pedestrian/cycleway west of the carriageway between the most northerly intersection and the Cudgen Creek bridge.
- (ii) Construction and dedication of a "connecting road" from the relocated Coast Road alignment to the existing Coast Road generally as indicated on the Development Plan.
- The junction of the relocated Coast Road and the "connecting road" shall be constructed to an AUSTROADS Type C Rural standard including intersection lighting to North Power standards. The design of the intersection and road reserve widths shall make provision for future traffic signals.
- (iii) The junctions of the relocated Coast Road and the accesses to proposed Lots 1 and 2 and proposed Lots 3 and 4 shall be constructed to an AUSTROADS Type C Rural standard. The design of the intersections and road reserve widths shall make provision for a future roundabout or traffic signals and/or intersection prioritisation works to the satisfaction of the Director of Engineering Services.
- (iv) The applicant shall provide a bond to Council for the upgrading of the three intersections referred to in sub-paragraphs (ii) and (iii) of this condition. The amount of the bond shall reflect the cost of upgrading the intersections from the standard as constructed at Stage 1 to the ultimate

urban intersection standard which includes kerb and guttering, signalisation (the northern intersection only), medians, lane widening and other such works as required under AUSTROADS Standards. This bond shall remain in place for twelve months from the date of this consent or until a S94 plan affecting the Land comes into effect whichever first occurs. The amount of the bond shall be based on the approved estimated cost of the approved works plus 20% to the satisfaction of the Director of Engineering Services.

- (v) A pedestrian footway shall be shown on the Development Plan on the western side of the relocated Coast Road from the intersection of the northern "connecting road" referred to in sub-paragraph (ii) above to the Cudgen Creek bridge with details to be included in the ultimate intersection construction detailed drawings.

- 15. The existing Coast Road formation from the north western corner of the Narui coastal site to the point where the proposed "connecting road" junctions with that road shall be dedicated to Council at no cost to Council in conjunction with registration of the linen plan of subdivision required for Stage 1.

Drainage/Flooding

- 16. Prior to release of the linen plan of subdivision, drainage works associated with the Stage 1 works shall be constructed at no cost to Council to accommodate discharges from the yields resulting from the Development Plan. The drainage works shall be in general accordance with the Plan Figure 3 attached to the report titled "Statement of Evidence - Report on Master Drainage and Stormwater Management Strategies - Lenen Pty Ltd", September 1998 prepared by PN Casey.

The engineering plans shall provide for:

- (i) The provision of water quality control facilities to service the Stage 1 drainage works;
- (ii) Design and construction of all water quality control facilities in general accordance with the publication "Managing Urban Stormwater" - Environment Protection Authority (3 Vols) (September 1996 and April 1997) or any subsequent amended standards published by the Environment Protection Authority;
- (iii) The engineering plans shall show the designed finished surface levels at the common boundary of all management and active open space lots to ensure that roads, underground drainage and public utility grade lines are continuous across the common boundaries of the proposed lots.
- (iv) (a) All drainage structures under the relocated Coast Road shall be provided prior to the release of the Stage 1 linen plan of subdivision

and such structures shall be designed and constructed to carry the major Q100 flows. A separate pedestrian underpass shall be provided which will be hydraulically isolated.

- (b) The outfall drainage works from the structure under the relocated Coast Road to Cudgen Creek shall be constructed prior to release of the Stage 1 linen plan and in accordance with approved engineering plans.
- (c) The engineering plans shall include provision for erosion controls at the outfalls and downstream of the outfalls as necessary subject to conditions 16(iv)(d) and (e).
- (d) Southern Outlet - Node 3

All specimens of Swamp Turpentine and broad-leaved paperbark greater than 10cm diameter at breast height shall be retained and lantana shall be removed. Planting to blackwoods shall be undertaken to offset any losses occurring during construction.

- (e) Northern Outlet - Node 11

No drainage structure, excavation or clearing shall occur within the woodland/forest dominated by swamp turpentine and broad-leaved paperbark located west of the fernland. The boundary between the woodland/forest and the fernland is defined as a band of swamp turpentine and/or broad-leaved paperbark trees of 10cm or greater diameter at breast height.

- (v) An easement 10m wide to drain storm water shall be created over proposed Lot 6 in favour of proposed Lot 7 and the Narui Land if acceptable to the owner of that land through development parcel 22 as identified on the Development Plan. The drainage line numbered 16/17 of Figure 3 of the report prepared by PN Casey titled "Statement of Evidence Report on Master Drainage and Stormwater Management Strategy, Lenen Pty Ltd" dated September 1998 shall be placed in this easement and constructed prior to the release of the Stage 1 linen plan of subdivision.

In lieu of construction of this drainage line the Applicant shall bond the said drainage work by way of cash or bank guarantee unlimited in time based on the estimated cost of the work plus 20% to the satisfaction of the Director of Engineering Services.

- 17. Erosion and sedimentation control measures for the Stage 1 works shall be implemented to the satisfaction of the Director Development Services during construction phase in accordance with the publication, "Manager Urban Stormwater" prepared by the NSW Environment Protection Authority (Vol 1-3),

Water Quality Monitoring Program

18. (i) A report establishing base line conditions of existing groundwater, including pH, total dissolved solids, total nitrogen, total phosphorus, iron (total), aluminium and faecal coliforms, shall be submitted and approved by the Director, Environment and Community Services prior to the approval of Stage 1 Part XII Engineering Plans.
- (ii) Surface water and groundwater monitoring programs (pre-construction, construction and operational phases), including details of standards, location and frequency, shall be submitted and approved by the Director, Environment and Community Services prior to approval of Stage 1 Part XII Engineering Plans.
- (iii) A report by a suitably qualified person detailing all water sampling results from the surface water and groundwater monitoring programs in respect of the Stage 1 works shall be submitted to Council on a routine 6 monthly basis from their commencement, including details of any failure to meet water quality discharge objectives and standards. Where sampling results indicate a substantial failure to meet water quality objectives or standards the results are to be reported immediately to Council for consideration. This requirement shall cease 1 year after the completion of the Stage 1 works.
- (iv) A report detailing water sampling results from the surface water and groundwater monitoring programs shall be submitted to Council prior to the commencement of any new stage of the development, including details of any relevant previous failures to meet water quality discharge objectives or standards. The report shall include a recommendation as to any proposed amelioration works required to be implemented to rectify the said failures and shall further include an indication as to whether the development may satisfactorily proceed.

Services

Sewer

19. (i) The provision of sewerage infrastructure to each allotment in general accordance with the Phase 1 works as identified in Figures 2 and 3 of the report titled "Statement of Evidence - Sewerage Infrastructure Report, Lenen Pty Ltd", September 1998, prepared by PN Casey.
- (ii) At the discretion of the applicant, in lieu of compliance with condition 19(i) prior to the release of the linen plan of subdivision, Council will accept a bond in cash or by way of bank guarantee unlimited in time for an amount based on the estimated cost of the works plus 20% and to the satisfaction of the Director of Engineering Services.

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In addition to the bond, the applicant shall enter into a Deed of Agreement with Council pursuant to Section 27 of the Water Supply Authorities Act to secure compliance with the bonded works. The Deed shall be executed prior to release of the Stage 1 linen plan of subdivision.

20. (i) The sites of sewage pumping stations No's 1 and 2 shall be transferred to Council in fee simple, at no cost to Council, within 28 days of the date of registration of the plan of subdivision.
- (ii) An accurate plan of the sewage pumping station sites shall be submitted to Council 60 days prior to lodgement of the linen plan to allow the land to be classified as Operational Land.

Water

21. Prior to release of the Stage 1 linen plan of subdivision the applicant will construct at no cost to Council, a water main on an alignment within the road reserve of the relocated Coast Road generally in accordance with Figure 3 of the report titled "Statement of Evidence - Report on Water Supply Infrastructure, Lenon Pty Ltd", September 1998, prepared by PN Casey, subject to detailed design being approved by the Director of Engineering Services.

Certification

22. Certification shall be provided by a qualified Engineer that all works set out in Conditions 14, 16, 17, 19 and 21 have been performed under his/her supervision in accordance with the approved engineering plans and specifications.

Telephone

23. Written evidence from Telstra Australia shall be provided certifying that satisfactory arrangements can be made for the provision of future underground telephone supply for the development.

Electricity

24. Written evidence from Northpower shall be provided certifying that satisfactory arrangements can be made for the provision of future underground electricity supply for the development.

Environment Protection

25. Suitable covering and protection shall be provided to minimise the risk of the removal by wind and stormwater runoff of material disturbed by works from the site causing nuisance to neighbouring properties.

26. All battered areas and areas disturbed by earthworks shall be topsoiled and grassed, or other suitable protection provided as soon as earthworks are complete.
27. All works associated with this Consent shall be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
28. Following completion of earthworks and other civil works for the construction of the said roadworks, the landscaped corridor proposed along the eastern edge thereof shall be rehabilitated and landscaped in accordance with plans to be submitted with the Engineering Plans and approved by the Director, Development Services.

Such plans shall incorporate the following and be prepared by a landscape architect:

 - i) To be generally in accordance with Condition 14(i)(c).
 - ii) Densely plant the landscaped corridor with native plant species which are suitable to the aspect and microclimate of the site. Planting emphasis will be on trees and ground covers which require minimal maintenance.
 - iii) A thick layer (minimum 300mm) of mulch shall be provided. Ideally the mulch will utilise unwanted growth cleared from the estate and chipped and retained on the subdivision. Such species include any Coastal Teatree that is cleared.
 - iv) The landscaping shall be completed to the satisfaction of the Director Development Services prior to release of the Stage 1 linen plan of subdivision.
 - v) A bond shall be lodged prior to release of the Stage 1 linen plan of subdivision to ensure that the landscaping and rehabilitation is maintained by the developer for a period of one (1) year or until the landscaping is established, whichever occurs first. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$10,000.00 whichever is the greater.
29. The burning off of trees and associated vegetation felled by clearing operations shall not occur unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval shall be required prior to any such burning commencing.
30. Construction site work including the entering and leaving of vehicles shall be restricted to between 7.00am and 7.00pm Monday to Saturday and no work on Sundays, except as may be permitted by the Director of Development Services.

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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 shall not exceed the following:

(a) Short Term Period - 4 weeks.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

(b) Long Term Period - the duration.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

32. The following controls shall apply to dog and cat ownership and a restriction as to user shall be created on the Management Lots under Section 88B of the Conveyancing Act, 1919-1964 in the following terms:-

- i. No property owner shall have more than one dog or one de-sexed cat;
- ii. Owners of dogs within the development shall have their yards fenced so as to securely contain a maximum of one (1) dog per allotment and that any owners of cats within the development be restricted to one de-sexed cat per allotment and to have their cats restrained within the house or a secure night cage between the hours of 6.00pm and 6.00am.
- iii. No dog to be registered without the construction of a dog-proof compound which must be approved by Council and the relevant fee paid by the applicant.
- iv. No owner can retrieve a dog that has been impounded unless they can demonstrate to Council they have a secure compound.

The Section 88B Instrument shall make provision for amendment, revocation or variation of restriction required by this conditions only with the approval of Council as the authorised authority.

33. 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 to the satisfaction of the Director of Development Services.

34. Prior to issuing a construction certificate for future development of any Management Lot, all existing Bitou bush plants shall be removed from that lot and the resultant disturbed areas shall be treated to suppress dust nuisance and soil erosion pending any development thereof.

35. A Dune Management Plan shall be prepared to the satisfaction of the Director of Development Services in respect of the Foredune lands adjoining the Land and be submitted in conjunction with the Part XII Engineering Plans.
36. The western side of the relocated Coast Road from new Cudgen Creek Bridge to the southern boundary of the site shall be fenced with a suitable koala barrier fence to the reasonable satisfaction of the Director of Development Services. The fence shall be of galvanised mesh "floppy top" type to the Roads and Traffic Authority standard and shall be located at the western toe of the batter.
37. Compensatory plantings of koala food trees comprising not less than 50 mature trees (ie. 12 inch tubs) or, alternatively, if such trees are demonstrably not commercially available, 200 tube stock trees shall be carried out on land to the west of the relocated Coast Road to the reasonable satisfaction of the Director of Development Services.

Dedication of Lands

38. a. The land shown on the Subdivision Plan as Lots 8, 9, 10, 11, 12, 13 and 14 shall be dedicated to the Council as public open space at no cost in conjunction with registration of the linen plan of subdivision creating the allotments.
- b. Following determination of the Coast Road Reserve width pursuant to Condition 14, the shape of lots 9, 10 and 11 shall be adjusted to ensure that each lot has an area of 1.5ha, 2.0ha and 2.0ha respectively and is capable of accommodating a playing field and ancillary facilities.

Walkway/Cycleway and Embellishment of Lots 12, 13 and 14

39. a. The proposed regional coastal walkway/cycleway within Land zoned 7(f) as shown on the Development Plan shall be constructed generally in accordance with detailed engineering plans to be submitted prior to the release of the Stage 1 linen plans of subdivision and approved prior to work on the said walkway/cycleway commencing.
- b. Construction of each section of walkway/cycleway immediately east of any management lot shall be completed prior to the release of the linen plan for future subdivision of the respective management lot.
- c. Notwithstanding the previous paragraph the walkway/cycleway adjacent to Lots 1, 2, 3, 4, 5 and 7 must be completed within four (4) years of the release by Council of the linen plan of subdivision for Stage 1 or the re-subdivision of the management lots or immediately following construction of the cycleway/walkway from Cudgen Headland to the northern boundary of the land, whichever occurs first.

- d. To secure compliance with condition 39(a), a bond shall be lodged before release of the Stage 1 linen plan of subdivision in cash or by bank guarantee unlimited in time based on the estimated cost of the work plus 20% to the satisfaction of the Director of Engineering Services. The bond shall be progressively released on a pro-rata basis upon the progressive completion of the said works to the reasonable satisfaction of the Director of Development Services.
- e. The design of the walkway shall be integrated with any adjacent proposed car parking areas and beach access points and shall extend for the full frontage of the land including, where necessary, within the Crown Foreshore Reserve subject to the written approval of the Reserves Trust.
- f. The applicant and/or owner shall prepare and submit a plan for the approval of the Director of Development Services within 6 months of the release of the linen plan for Stage 1 for the embellishment works on Lots 12, 13 and 14 and such plan shall provide for:-
- (i) removal of bitou bush and other noxious weeds
 - (ii) rehabilitation of the area consistent with the Dune Management Plan referred to in Condition 35 of the Consent Orders and good practice in this regard
 - (iii) provision of adequate and appropriate security lighting for users of Lots 12, 13 and 14
 - (iv) provision of suitable related day visitor facilities, generally consistent with drawings contained in Appendix E to the Statement of Environmental Effects.
- g. (i) A schedule for the implementation of the embellishment works including the relationship between the works set out in f(iii) and (iv) to the development of any management lots shall be submitted and approved by the Director, Development Services as part of the plan referred to in Condition 39(f).
- (ii) The embellishment works required by Conditions 39(f)(i-iv) shall be completed within four (4) years of the release by Council of the linen plan of subdivision for Stage 1.
 - (iii) If the walkway/cycleway or any part thereof is constructed in accordance with Condition 39(b) then the embellishment works referred to in this condition or in Condition 39(f)(i-iv) shall be carried out concurrently in respect of Lots 12, 13 and 14 in which the walkway/cycleway is constructed.
 - (iv) If at the time of sale by Lenen Pty Ltd of any of Lots 1 to 5 and 7 and the embellishment works referred to in Condition 39(f)(i-iv) have not been completed in Lots 12, 13 and 14 as those lots are immediately east of the management lot as then sold, the applicant shall provide in respect of those embellishment works a bond equivalent to the cost of those works plus 20%.

Banksia Planting

40. The applicant shall plant a total of not fewer than 8600 *Banksia integrifolia* as part of the Stage 1 works. To avoid the potential for a *Banksia* monoculture, the numbers of *Banksias* proposed for replanting shall include a proportion of other relevant flowering native species depending on the location for replanting. These other relevant species shall be of a type that provides a food source for the Queensland Blossom Bat. Approximately 20% of the planting shall comprise other relevant flowering species. The said planting shall:-

- i. be completed no later than 30 June 1999
- ii. be planted within Lot 8 as shown on the Subdivision Plan and on the Richtech land in the areas defined in the Amelioration Plan.
- iii. not be planted in areas identified as being within SEPP14 wetlands (as they currently exist or as proposed to be included by the Minister as at the date of this consent) without the approval of the Department of Urban Affairs and Planning.
- iv. comprise tube stock produced from local provenance or from good quality seed which has had not less than 4 months growth in grow tubes.

41. (a) Any development application with respect to any of the Management Lots shall provide for the planting of not fewer than the number of *Banksia integrifolia* shown in the Table hereunder against each such lot and totalling not less than 5400 stems provided that those numbers shall be reduced so that they total the difference between 14000 and the total number of stems planted pursuant to condition 40 (where they total more than 8600).

To avoid the potential for a *Banksia* monoculture, the numbers of *Banksias* proposed for replanting shall include a proportion of other relevant flowering native species depending on the location for replanting. These other relevant species shall be of a type that provides a food source for the Queensland Blossom Bat. Approximately 20% of the planting shall comprise other relevant flowering species.

Lot No	Compensatory planting (stem numbers)
1	690*
2	382
3	1256
4	1232
5	1435
6	49*
7	356
Total	5400

- (b) Any such planting shall be carried out before the linen plan of subdivision of any such Management Lot is released.

* Total of 1 and 2 = 1072

* Total of 6 and 7 = 405

- (c) The Applicant shall within 6 months of the date of this consent provide to the Council and the National Parks and Wildlife Service an estimate of the number of productive inflorescences that are within the site of the relocated Coast Road and the Management Lots at that time.

- (d) Where an application is made for consent to the development of a Management Lot within 8 years of the completion of the planting referred to in Condition 40, the applicant for such consent shall be required, prior to such a consent being granted, to satisfy the National Parks and Wildlife Service that the removal of any Queensland Blossom Bat foraging resource from that Management Lot will not unduly reduce the total productive inflorescences referred to in (c) above or that such removal may proceed notwithstanding any such reduction.

- (e) The applicant shall within 3 months of the granting of this consent make application to the NPWS for its approval to plant at the expense of the applicant not less than 5400 Banksia integrifolia in the Cudgen Nature Reserve. Upon such approval being granted, the applicant shall carry out such planting at the same time as, or within 6 months of, the planting referred to in condition 40. Such planting shall be in addition to the planting in sub-paragraph (a) above except to the extent that the National Parks and Wildlife Service and the Council determines otherwise.

42. The Stage 1 works shall not commence unless and until the National Parks and Wildlife Service has inspected the plantings referred to in Condition 40 and has advised the Director, Development Services that the said planting has been carried out satisfactorily and in accordance with the said condition.

43. A Vegetation Management Plan (VMP) shall be prepared by a suitably qualified person appointed by the applicant and approved by NPWS and the Director of Development Services (hereafter referred to as DDS) prior to the commencement of the planting referred to in Condition 40. Such approval shall not be unreasonably withheld. The VMP shall detail clean up works, clearing works, methodology for marking, watering, mulching, staking, signposting, fencing and weeding, the age and source of supply of plants, the spacing of trees, a fire minimisation strategy that aims to protect replanted areas and/or replace destroyed trees, and means of protecting plants from possible predation, e.g., by wallabies. Attention must also be paid to minimising any adverse affects on existing native vegetation through shading or competition for nutrients by the plantings.

44. The Vegetation Management Plan shall also provide details of monitoring and performance criteria for the approval of the Director of Development Services based upon advice from the National Parks and Wildlife Service. Monitoring shall be conducted at no cost to the Council by a suitably qualified person engaged by the applicant.
45. The completion of the Amelioration Program shall be bonded by way of cash or bank guarantee (unlimited in time) based on the estimated cost of the works therein referred to.
- The bond shall be refunded or released progressively upon satisfactory compliance with Conditions 40 and 41 or any part thereof.
46. Monitoring of the plantings in condition 40 shall occur every three months for the first year and thereafter at six monthly intervals unless otherwise agreed. A monitoring report shall be produced every six (6) months and shall make recommendations regarding any ongoing modifications to the Planting for the approval of the Director of Development Services based upon advice from the National Parks and Wildlife Service. These recommendations shall include the need to replace any unsuccessful plantings up to four years after initial planting and which may have been unsuccessful or destroyed. The NPWS and DDS reserve the right to inspect progress at any time.
47. No approval shall be granted for development of any Management Lots unless the monitoring reports referred to in Condition 46 are sufficient to satisfy the Director of Development Services based upon advice from the National Parks and Wildlife Services that the plants are maturing in accordance with the programme set out in the Vegetation Management Plan. Each subsequent development application will detail the locations, timing and methodology of any further plantings proposed in accordance with Condition 42 above.
48. If upon application being submitted for the development of any of Management Lots and where work is still required by any previous development consent in respect of those lots has not been carried out to the satisfaction of the DDS based upon advice from the National Parks and Wildlife Services, Council shall be entitled to call upon the bond referred to in Condition 45 to carry out the works. Each consent for development in respect of the Management Lots or parts thereof shall be conditioned for Council its employees or agents to enter upon those lands to carry out the planting on that lot.

Lot 500 Environmental Plan of Management

49. The applicant shall have prepared a Environmental Plan of Management by a suitably qualified person in conjunction with the Dept. of Land and Water Conservation and the Director of Development Services in respect of so much of Lot 500 as adjoins the Land that addresses any potential impacts on any threatened species, eg., oystercatchers, Little Terns and turtles, found using the beach and foredunes. This plan shall consider the exclusion of the public,

domestic pets, feral animals, and four wheel drives from any detected nesting or roosting areas and the replanting of the dunes with suitable native vegetation including Banksias.

Acid Sulphate Soils Management

50. An Acid Sulphate Soil Management Plan in respect of the Stage 1 works prepared in accordance with the "Acid Sulfate Soils Assessment and Management Guidelines", EPA, DUAP, ASMAC, 1997 as amended, shall be submitted and approved by the Director of Environment and Community Services prior to approval of the Part XII Engineering Plans for such works.

Any work required by this consent shall be carried out in accordance with the approved Management Plan.

The following details must be included in the approved plan:-

- i. Proposed soil and water monitoring including parameters, analysis methods, location, frequency and action levels.

Note: Validation analysis of soils following lime application is to include recognised testing for potential acidity.

- ii. Neutralisation strategies including dosage rates, application methods, and, if required, method of separation of pyrite from other soil constituents.
- iii. General measures including containment and stock piling.
- iv. Contingency measures including remedial and restoration action.
- v. Complete raw data on the analysis undertaken on the 24 bore holes in August/September 1998.

51. The detailed design of the relocated Coast Road shall, if reasonably practicable and economically feasible (such matters to be determined by a qualified Civil Engineer in his or her absolute discretion acting (bona fide), locate the ultimate 4 lane road formation of that road where it abuts development parcels 3 and 6 as shown on the Development Plan to the eastern side of the road reserve so as to retain as many Koala food trees (being Redgums) in that location as is practicable.

52. Unless otherwise provided in these conditions, all bonds/bank guarantees shall be released progressively upon completion to the reasonable satisfaction of the relevant Council officer of the works which they secure.

Dictionary

For the purposes of the conditions of this consent and the following conditions the words and phrases set out below shall have the meanings as referenced except where the context otherwise indicates:-

The Land means Lot 2 in DP 811425 together with the Reserved Roads shown thereon and the reserve road in Part Portion 147.

The Richtech Land means so much of part portions 197 on DP 14895 as is cross hatched on the Amelioration Plan.

The Amelioration Program means the planting of Banksia integrifolia provided for by Conditions 40 and 41 of this Consent.

The Development Plan means Plan No. *1499209/2* *6 Oct. 1992* ~~XXXXXXXXXX~~ dated ~~XXXXXXXXXXXXXX~~ and titled "Kings Beach Development Plan".

The Subdivision Plan means Plan No. *1499209/3* *6 Oct 92* ~~XXXXXXXXXX~~ dated ~~XXXXXXXXXXXXXX~~ and titled "Kings Beach Subdivision Plan".

The Development means the use of the Land for the purposes of low and medium density residential, commercial, retail and tourist development together with associated and related uses and facilities in accordance with the Development Plan.

Stage 1 means Stage 1 of the development being the Stage 1 works.

The Stage 1 Works means the works comprising the relocation and construction of the Coast Road, and the connecting road together with associated drainage, water supply and sewerage infrastructure.

The Management Lots means Lots 1-7 (inclusive) in the Subdivision Plan.

The Narui Land means Lot 1 DP 811425.

B. Pursuant to Part XII of the Local Government Act, 1919 (as saved) approval is granted for:

- i. The subdivision of the land into 14 lots as shown generally on the Subdivision Plan; and
- ii. The carrying out of Stage 1 works generally in accordance with the following conditions.

1. The subdivision shall be carried out in general accordance with the conditions of development consent S96/135.

2.
 - i. Submission and approval of engineering plans for roadworks, earthworks, drainage and associated works (3 copies) for Stage 1.
 - ii. Submission and approval of engineering plans for the trunk sewerage reticulation Phase 1 works generally in accordance with Figures 2 and 3 of the report titled "Statement of Evidence - Sewerage Infrastructure Report , Lenen Pty Ltd", September 1998 prepared by PN Casey for the purposes of bonding only, as identified in Condition 19(ii) of Development Consent S96/135;
 - iii. Submission and approval of engineering plans for water supply reticulation generally in accordance with Figure 3 of the report titled "Statement of Evidence - Report on Water Supply Infrastructure - Lenen Pty Ltd", September 1998 prepared by PN Casey;
 - iv. Submission and approval of a plan showing the location of all service conduits (water, NorthPower and Telstra);
 - v. The final linen plan and seven (7) copies together with any application Section 88B Instrument, accompanied by linen fees of \$105/lot, eg. 14 lots @ \$105/lot = \$1470.00;
 - vi. If required, the applicant shall submit, with the Engineering Plans, an assessment under Part V of the Environmental Planning and Assessment Act, 1979, in relation to all infrastructure works external to the site which are required by conditions of Development Consent S96/135.

3. Payment of Fees

Payment of the design assessment fee shall accompany the Engineering Plans. The construction inspection fee shall be paid **PRIOR** to linen release.

a. Design Assessment Fees

- i. 14 Urban lots @ \$130.00 per lot

\$1820.00

b. Construction Inspection fees

- i. 14 Urban Lots @ \$135.00 per lot \$1840.00

The fees quoted above will remain fixed for a period of 12 months from the date of this approval and thereafter in accordance with the rates applicable in Council's adopted fees and charges current at the time of payment.

Please note the above fees do not include 'Off Maintenance' inspections.

4. Compliance with Council's Subdivision Manual (DCP No. 16) insofar as it is applicable to Stage 1 works.
5. The supply of work as executed plans under the hand of a Registered Surveyor or Qualified Engineer. The plans shall be submitted prior to release of the linen plan. Additionally, the submission of a written statement from the Supervising Engineer that the whole of the works have been constructed in accordance with the Approved Plans. The plans are to be accompanied by certification that all drainage lines and structures are wholly contained within the drainage easements created by the linen plan.
6. The lodgement of a Cash Security or Bank Guarantee equal to 5% of the value of the works. This security will be held pending the twelve (12) month performance of the works after completion.
7. **Design**

Not less than seven (7) days prior to commencement of road construction, a report shall be submitted to Council by a Registered or Qualified Engineer that determines the design of the road pavements. The design shall be based on the relevant standards, namely:

- * Austroads: Pavement Design, A Guide to the Structural Design of Road Pavements (1992); and
- * Austroads, ARRB, APRG: A Guide to the Design of New Pavements for Light Traffic, A Supplement to Austroads Pavement Design, (APRG Report No. 21, January, 1998).

The report shall be accompanied by a subgrade analysis prepared by a Registered NATA Consultant/Testing Authority.

Pavement and Earthworks Construction

On completion of each pavement layer of the road construction and/or any earthworks approved under the Part XII Application as made, and prior to the release of the Linen Plan(s), a report shall be submitted from a Registered NATA Consultant/Testing Authority evidencing that:

- a) The pavement has been constructed in accordance with the design.

- b) The pavement materials used comply with the specifications in RTA Form 744 (July, 1985).
 - c) The pavement layers have been compacted to RTA Specifications, and the requirements of the performance specifications as approved under the Part XII Application as made.
 - d) The site fill areas as identified in the design approved under Part XII Application as made, have been compacted to the requirements of the performance specifications also approved under the Part XII Application as made.
 - e) The supervision of any Bulk Earthworks has been to Level 1 standard as defined in Australian Standard AS 3798-1996, and the frequency of field density testing has complied with the requirements of Table 8.1 of AS 3798-1996.
 - f) The pavement testing has complied with the requirements of Table 8.1 of AS 3798-1996.
- 8. Council will require seven (7) days' notice of intention to commence works in accordance with the requirement of DCP 16 Clause 12.3.6.
 - 9. Council must be given 24 hours notice of all inspections as per subdivision manual requirements.
 - 10. The twelve (12) months maintenance period commences upon linen plan release.
 - 11. Contractor to have copy of Council approved plans available on site.
 - 12. Attention is invited to Development Consent dated 16 December 1998 in 10686 of 1997 and the conditions attached to that consent. Compliance with the conditions of development consent and this subdivision approval is required prior to the release of the linen plan of subdivision. Failure to comply with all conditions will result in delays in releasing the linen plan.
 - 13. Compliance with the provisions of the Occupational Health and Safety Act and the Australian Standards AS 1742; particularly in respect of works being conducted on a public road, traffic control, RTA form 121 and ensuring safe public access at all times.
 - 14. Where new state survey marks and/or permanent marks are placed, a copy of the locality sketch relating to the marks shall be submitted with the final linen plan of subdivision.
 - 15. All retaining walls in excess of 1.2 metres in height must be structurally certified by a Qualified Engineer verifying the structural integrity of the retaining wall after construction.

16. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the Director, Development Services PRIOR to linen release. The surrounding 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 linen release.
17. Regular inspections are to be carried out 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 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 in the roadway.

This inspection program is to be maintained until 'off maintenance' or until Council is satisfied that the site is fully rehabilitated.
18. Approval of the fill source and proposed haul route is required prior to the import of any material. Additional conditions on the haul route may be imposed with that approval.
19. A Shake Down Area constructed from a durable material and of a sufficient size, is to be suitably located to prevent any material being deposited on public roadway. In the event that material is deposited, it is the responsibility of the consultant to ensure that the material is cleaned up to the satisfaction of the Director Development Services.

Dated

Deed of Agreement

LENEN PTY LTD
(ACN 001 045 816)
("Lenen")

RICHTECH PTY LTD
(ACN 010 977 536)
("Richtech")

TWEED SHIRE COUNCIL
("Council")

Mallesons Stephen Jaques
Solicitors

Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000
Telephone (61 2) 9296 2000
Fax (61 2) 9296 3999
DX 113 Sydney
Ref: DOD

Printed 15/12/98

Deed of Agreement

Date:

1998

Parties:

LENEN PTY LTD (CAN 001 045 816) ("Lenen")
RICHTECH PTY LTD (CAN 010 977 536) ("Richtech")
TWEED SHIRE COUNCIL ("Council")

Recitals:

- A. Lenen is the registered proprietor of certain lands more particularly described as Lot 2 DP 811425 (the "Development Land") and Lots 194, 301 and 312 in DP 755701 ("the Northern Land").
- B. Richtech is the registered proprietor of land adjoining the Development Land more particularly described as Lot 1971 DP 14895 and Lots 4-6, 10, 14-15 Section 1 DP 14895, Lots 10-36 Section 2 DP 14895, Lots 1-36 Section 3 DP 14895, Lots 1-18 Section 4 DP 14895, Lots 1-12 Section 5 DP 14895, Lots 1-4, 9-13, 16-32 Section 6 DP 14895, Lots 1-32 Section 7 DP 14895, Lots 1-16 Section 8 DP 14895 Parish Cudgen (the "Richtech Land").
- C. Part of the Richtech Land is proposed to be planted with Banksia Integrifolia which part is generally identified as being cross hatched on the Plan annexed hereto as "A" (the "Amelioration Land").
- D. Lenen lodged with Council development application S96/135 for the subdivision and development of the Development Land in stages ("Development Application").
- E. Lenen lodged an appeal in the Land and Environment Court of New South Wales number 10686 of 1997 against the Council's deemed refusal of the development application. The Council subsequently refused the development application.
- F. Negotiations have taken place between the parties and as a result:
 - (a) Lenen has caused to be prepared an amended development application comprising:
 - (i) Subdivision Plan No. MG9808/3 annexed hereto as "B";

- (ii) Development Plan No. MG9808/2 annexed hereto as "C";
- (b) Council has caused to be prepared:
 - (i) draft conditions of development consent (the "Conditions") annexed hereto as "D";
 - (ii) draft development control plan annexed hereto as "E".
- G. Lenen and the Council have agreed to seek consent orders from the Land and Environment Court providing for the grant of development consent in respect of the Amended Development Application pursuant to section 91AB of the Act, subject to the Conditions and for the subdivision of the Development Land into 14 lots.
- H. Lenen has lodged with the Council an application for subdivision of the Development Land under Part XII of the Local Government Act 1919 into 14 lots.
- I. The Council has agreed to prepare a Section 94 plan in respect of the Development land which shall provide for 1.25ha per thousand population for active open space and 1.13ha per thousand population for passive open space.
- J. The carrying out of the development on the Development Land proposed in the amended Development Application will impact on the food source of the Queensland Blossom bat and accordingly amelioration planting is required to sustain the habitat and food source for the Queensland Blossom bat community which exists on the land.
- K. Council commenced proceedings No 4045 of 1993 against Lenen and Richtech in the Equity Division of the Supreme Court of New South Wales with respect to the status of the existing Coast Road where it is constructed on the Development Land, the Northern Land and the Richtech Land.
- L. The parties have agreed to resolve all issues in dispute upon and subject to the terms of this deed.
- M. Lenen has caused to be prepared by the McInnes Group plan number MG9808/4 dated 5 October 1998 which depicts public open space for immediate dedication and for later dedication.

Operative provisions:

1. Definitions

Act means Environmental Planning and Assessment Act, 1979.

Consent means a consent granted to the amended development application by the Land and Environment Court pursuant to section 91AB of the Act.

Credit means the credit identified in clause 2.8.

Section 94 Plan means the section 94 contributions plan referred to in clause "I".

2. Terms

- 2.1 This deed shall not become operative and binding upon the parties unless and until the Consent has become operative pursuant to the Act.
- 2.2 Richtech shall execute a transfer to the Council of the Amelioration Land for the amount of \$1 within 28 days of the Consent becoming operational pursuant to the Act. The transfer shall not be registered by the Council and shall be held in escrow until the Amelioration Land has been dedicated to Council pursuant to the Section 94 Plan whereupon the said transfer shall be cancelled and returned to Lenen.
- 2.3 Lenen shall plant upon the Amelioration Land no fewer than 4750 Banksia Integrifolia in accordance with Condition 40 of the Consent.
- 2.4 Richtech and the Council hereby grant to Lenen the right to enter upon Lot 8 of the Development Land and the Amelioration Land for the purpose of complying with condition 40 of the Consent.
- 2.5 Should Lenen transfer any part of the Development Land prior to the carrying out of its obligations under clause 2.2, 2.3, 2.6, 2.8(b)(ii) and 2.8(e) of this deed, Lenen shall require each such successor in title to enter into a deed of agreement with the Council and Richtech in similar terms to the terms of the deed set out herein.
- 2.6 Lenen and/or Richtech agree to grant to the Council a right of carriageway 20 metres wide over the existing Coast Road where it currently is located within the Northern Land and the Richtech Land

together with an easement for services with respect to any existing services within the site of the said carriageway provided that the said right of carriageway and easement for services shall be surrendered by the Council with respect to the Richtech Land as soon as an approved alternative access route has been dedicated and constructed to a suitable standard and with respect to the Northern Land upon the commencement of any works upon that land pursuant to any consent granted under the Act for the development thereof. Such right of carriageway and easement for services shall be prepared by or on behalf of the Council at its expense including any necessary survey plans required with respect to the grant of any such right of carriageway and/or easement for services.

- 2.7 Council shall not object to the closing and transfer to Lenen of any reserved roads within the Development Land which are rendered unnecessary by the Development, subject to alternative legal access being made available when any closing would sever public access to the beach or Lot 8. The Council will cooperate with Lenen in any application by Lenen to close the said roads.
- 2.8 The Council shall forthwith (and, in any event, within 6 months of the date of operation of this Deed) prepare and adopt a section 94 plan in accordance with the Act in respect of the Development Land which provides that:
- a.
- (i) the development of the 7 Management Lots referred to in the Conditions will generate a demand for 7ha of active public open space;
 - (ii) Lenen has already provided 5.5ha of active Public Open Space by the dedication of Lots 9, 10 and 11 of the Development Land;
 - (iii) Lenen to be entitled to assign any credits as set out in the Section 94 Plan.
- b.
- (i) Lenen has fully satisfied the demand for passive Public Open Space generated by the proposed development of the 7 Management Lots by the dedication of land pursuant to the Conditions subject only to the future dedication of passive Public Open Space as depicted as "Public Open Space Later

Dedication" on the McInnes Group Plan number MG9808/4 dated 5 October 1998 including areas related to the drainage reserves and the community common (9200 square metres) and the future dedication of local parks to be provided in accordance with the provisions of AMCORD 1995 - ie. each park to have an area of not less than 2000 square metres; be generally not more than 250m from any residential dwelling and each park's perimeter shall have at least 50% frontage to a public road;

- (ii) The passive open space depicted as "Public Open Space for Later Dedication" on McInnes Group Plan number MG9808/4 dated 5 October 1998 and generally described as public open space related to drainage reserves and the community common of 9200 square metres (hereinafter referred to as the "**Later Open Space Dedicated Land**"), shall be required to be dedicated, and Lenen hereby consents to such dedication at no cost to Council of the Later Open Space Dedicated Land.
- c. Lenen has credit for an amount being the difference between the value as determined pursuant to Condition 12(a)(i) of the Conditions of the 10m of additional road reserve width dedicated to the Council to enable the construction of future road widening of the relocated Coast Road from the new bridge over Cudgen Creek to the southern boundary of the Development Land and the sum of \$16,758.00;
- d. The Credit to be available to Lenen or its assignee with respect to any proposed development within Sector 7 of Tweed Section 94 Plan No. 4 against any future cash contribution required in respect of any such development pursuant to that plan or any plan made in substitution therefor.
- e. Upon the further development of each of the management lots, the proposed road adjacent to the eastern boundary of the site including the side roads for a distance of 100m from the "esplanade roads" shall be dedicated and constructed so as to provide for no less than 464 parking spaces in aggregate on those lots, at no cost to Council. The minimum 464 parking spaces may be provided, either within the road reservations or within parking areas to be created and subject to approval by Council.
- f. Upon the National Parks and Wildlife Service advising the Council that it will consent to the modification of the planting of Banksia

Integrifolia to be planted in accordance with Condition 40 to 48, Council will consider an application for modification in terms of the consent of the National Parks and Wildlife Service.

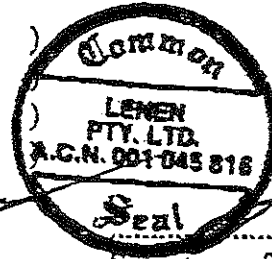
- 2.9 Lenen shall advise the Council of any assignment of the Credits in the Section 94 Plan such that at any one time the entitlement of Lenen to further assign or claim rights to Credits can be identified.
- 2.10 Pending the construction, dedication and opening of the relocated Coast Road pursuant to the Consent and the Conditions and further pending compliance with condition 8(v), 14(i)(a), 14(ii) and 15 of the Conditions, Lenen shall keep the existing Coast Road, where it traverses the Development Land, open to the public and shall, in the event of any threat by it to deny public access to that road and if called upon by the Council to do so, grant to the Council a right of carriageway 20 metres wide and an easement for services over the site of the existing Coast Road where it traverses the Development Land.
- 2.11 Immediately after the grant of the Consent, the Council must cause the grant of that consent to be publicly notified under the provisions of section 101 of the Environmental Planning and Assessment Act, 1979. The Council will provide a copy of the notification to Lenen within 14 days of its publication.
- 2.12 The Council and Lenen hereby authorise their legal representatives to enter into Consent Orders in the form annexed to this deed and marked "F" and "G" for the settlement of both the Land and Environment Court and Supreme Court proceedings.

EXECUTED as a deed

Printed 15/12/98

Execution page

THE COMMON SEAL of LENEN
PTY LIMITED is affixed in accordance
with its articles of association in the
presence of:



X *[Signature]*
Signature of authorised person

[Signature]
Signature of authorised person

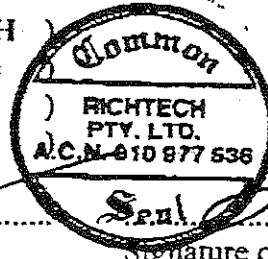
DIRECTOR
Office held

SECRETARY
Office held

CLYDE IAN BARCLAY
Name of authorised person (block letters)

FRANCIS ROBERT WILSON
Name of authorised person (block letters)

THE COMMON SEAL of RICHTECH
PTY LIMITED is affixed in accordance
with its articles of association in the
presence of:



X *[Signature]*
Signature of authorised person

[Signature]
Signature of authorised person

DIRECTOR
Office held

SECRETARY
Office held

THE COMMON SEAL of TWEED
SHIRE COUNCIL is affixed in
accordance with its articles of association
in the presence of:

[Signature]
Signature of authorised person

MAYOR
Office held

MAX R. BOYD
Name of authorised person (block letters)

Name of authorised person (block letters)

[Signature]
Signature of authorised person

GENERAL MANAGER
Office held

DR JOHN GRIFFIN
Name of authorised person (block letters)

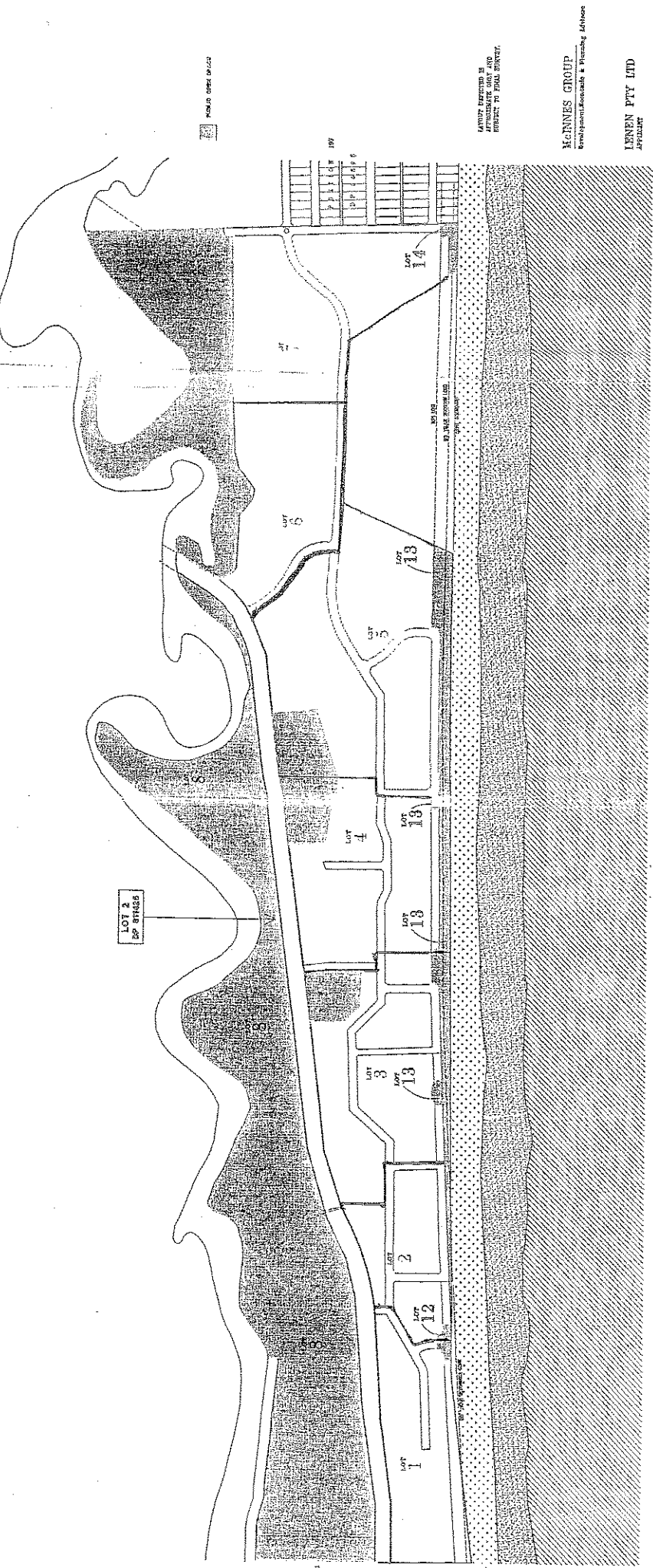


CONSENT ORDER 17/12/98



KINGS BEACH DEVELOPMENT PLAN

MG9208/2 - 10/98



PLAN OF SUBDIVISION
 1:1000 SCALE
 10/10/2013

LAYOUT PREPARED BY
 APPROPRIATE UNIT AND
 PRESENT TO LOCAL COUNCIL

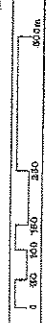
McKENNES GROUP
 10/10/2013/10/10/2013 & 10/10/2013

LENN PTY LTD
 APPROVED

PLAN OF SUBDIVISION
 1:1000 SCALE

KINGSCLIFF SOUTH, NSW

KINGSBEACH SUBDIVISION PLAN



LOT 1
 DP 100751



KINGS BEACH DEVELOPMENT PLAN

MG9808/3 – 10/98