

Mayor: Cr K Skinner (Mayor)

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

Minutes

Ordinary Council Meeting Tuesday 14 December 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 3.35pm.

IN ATTENDANCE

Cr K Skinner (Mayor), Cr B Longland (Deputy Mayor), Cr D Holdom, Cr K Milne, Cr W Polglase, Cr J van Lieshout and Cr P Youngblutt.

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

ABORIGINAL STATEMENT

The Mayor acknowledged the Bundjalung Aboriginal Nation with the following statement::

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

PRAYER

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

Proverbs 16:9: The human mind plans the way, but the LORD directs the steps. (NRSV).

Lord God, we live in a culture that prizes self-sufficiency and celebrates autonomy. But we are painfully learning the lesson that we really need other people, that we can achieve very little on our own. As you remind us that dependence is not a dirty word, we come this afternoon to admit our dependence on you for wisdom and guidance, integrity and impartiality in decision-making. For if you are not just, no-one is, and unless you help us, we cannot help ourselves.

Amen.

CONFIRMATION OF MINUTES

1 Minutes of the Ordinary and Confidential Council Meetings held on Tuesday 16 November 2010

811

Cr D Holdom
Cr P Youngblutt

RESOLVED that the Minutes of the Ordinary and Confidential Council Meetings held Tuesday 16 November 2010 be adopted as a true and accurate record of proceedings of that meeting.

FOR VOTE - Unanimous

APOLOGIES

Nil.

DISCLOSURE OF INTEREST

Cr W Polglase wishes to declare a pecuniary interest in Item 49 in accordance with the Code of Conduct.

The nature of the interest is that Cr Polgalse has business involvement in the subject estate.

Cr D Holdom wishes to declare a perceived non-pecuniary interest in Item 60 in accordance with the Code of Conduct.

The nature of the interest is that Cr Holdom has a relationship with the previous Park Residents' Association.

Cr J van Lieshout wishes to declare a perceived non-pecuniary interest in Item 2 of the Confidential Agenda in accordance with the Code of Conduct.

The nature of the interest is that Cr van Lieshout owns a property in the vicinity of the subject property.

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

812

Cr D Holdom
Cr P Youngblutt

RESOLVED that the Confidential Attachment to Item 6 be brought into open council.

The Motion was **Carried**

FOR VOTE - Unanimous

SCHEDULE OF OUTSTANDING RESOLUTIONS

2 Schedule of Outstanding Resolutions

The Schedule of Outstanding Resolutions was received and noted.

MAYORAL MINUTE

3 [MM] Mayoral Minute for the Period 05 November to 01 December 2010

813

Cr K Skinner
Cr W Polglase

RESOLVED that:-

1. The Mayoral Minute for the period 05 November to 01 December be received and noted with the following notation:
 - Cr van Lieshout attended the Tweed Regional Art Gallery Committee meeting on 17 November 2010
 - Crs K Milne and Cr Longland attended the Tweed CAN meeting on 11 November 2010
2. The attendance of Councillors at nominated Conferences be authorised as follows:
 - Cr Skinner was nominated to attend the Coastal Council Conference 28-30 March 2011
 - Cr van Lieshout was nominated to attend the Tourism Conference 9-11 March 2011
3. The following motion/s for consideration at the "A" Division Conference be endorsed for inclusion on the agenda for this Conference:
 - Native Vegetation Act
Lobby the Minister for the Environment in relation to the lack of native vegetation protection provided under the Native Vegetation Act.
4. The General Manager forwards draft motions received from Councillors for consideration at the "A" Division Conference as a preliminary action with endorsement to be sought at the Council meeting to be held in January 2011.

The Motion was **Carried**

FOR VOTE - Unanimous

4 [MM] Mayoral Minute - Arts Northern Rivers Board

814

**Cr K Skinner
Cr B Longland**

RESOLVED that Council endorses Cr Holdom as delegate to the Arts Northern Rivers Board.

The Motion was **Carried**

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

a4 [MM-CM] GP Super Clinics

LATE ITEM

815

**Cr K Skinner
Cr W Polglase**

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

The Motion was **Carried**

FOR VOTE - Unanimous

816

Cr K Skinner

RESOLVED that Tweed Shire Council supports the Commonwealth government funded initiative to establish a GP super clinic in the shire.

The Motion was **Carried**

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

ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

5 [GM-CM] Tweed Tourism Quarterly Performance Report – July to September 2010

817

Cr D Holdom
Cr W Polglase

RESOLVED that Council endorses:

1. the Tweed Tourism Quarterly Report for the quarter July to September 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 - Voting - Unanimous

6 [GM-CM] Final Tweed Economic Development Corporation Report to Council

818

Cr D Holdom
Cr W Polglase

RESOLVED that:

1. Council receives and notes the "Final Report to Tweed Shire Council" from Tweed Economic Development Corporation.
2. Council endorses ATTACHMENT 1 to be brought into Open Council.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

7 [GM-CM] Cross Border Economic Initiatives Workshop

819

**Cr D Holdom
Cr B Longland**

RESOLVED that Council participates in the Cross Border Economic Initiatives Workshop.

The Motion was **Carried**

FOR VOTE - Unanimous

8 [GM-CM] World Environment Day 2011

820

**Cr D Holdom
Cr B Longland**

RESOLVED that Council allocates first round donations funding for 2010/2011 under the Festivals Policy of \$3,000 to Caldera Environment Centre for World Environment Day to be held on 5 June 2011.

The Motion was **Carried**

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

9 [GM-CM] 2011 NSW State Government Election

821

**Cr W Polglase
Cr D Holdom**

RESOLVED that:-

- A. Council seeks to obtain the following commitments from the Government, Coalition and Greens Party prior to the March 2011 election:
 1. Section 94 Legislation
 - (a) An endorsement and ongoing high level support of a user pays, developer contribution system to finance the key community infrastructure needed to service the population created by new greenfield and brownfield developments.

- (b) The current developer contributions cap for "brownfield" areas be increased to \$30,000 and caps for both "greenfield" and "brownfield" areas be indexed to reflect local construction and land costs.
 - (c) Introduction of a straight forward procedure to obtain Ministerial approval to exceed the developer contributions cap in localities where it can be demonstrated that a higher cap is needed to service the needs of that locality.
 - (d) Retention of community, recreational and sporting facility buildings as eligible items in developer contribution plans.
- 2. Brothels
The implementation of a new licensing system for brothels in New South Wales.
- 3. Kingscliff Beach Nourishment Funding
 - (a) That, for the purpose of sand extraction from the Tweed River for use as sand nourishment on Kingscliff Beach in accordance with the Council-adopted and Minister-endorsed Coastal Zone Management Plan, that sand royalties will not be required to be paid to the Government of the day.
 - (b) The provision of significant financial assistance toward the estimated \$6M cost of the sand nourishment program to protect valued community assets on Kingscliff foreshore in accordance with the Tweed Shire Coastline Management Plan.
- 4. Lot 490
The provision of a reasonable proportion of income from Lot 490 at South Kingscliff to assist in sustainable management and maintenance of the Tweed Coast reserve system.
- 5. Northern Rivers Economic Zone.
The establishment of a Cross Border Commission to develop, implement and overview a Northern Rivers Economic Zone.
- 6. Cost Shifting
 - (a) The cessation of service delivery being transferred to Local Government without any corresponding recurrent funding (cost shifting).
 - (b) Request the State Government and opposition to review the cost shifting that has occurred in recent years and seek a recurrent funding mechanism to meet these additional demands placed upon local government.
- 7. Waste Levy

- (a) That the Waste and Environment Levy, being an economic driver to reduce waste to landfill, is comprehensively reviewed against waste diversion performance in levy regulated areas.
 - (b) That, specifically, the escalation of the levy at \$10 (+ CPI) per tonne be reviewed and decreased to allow levy regulated Council's proper time to investigate and implement alternatives to landfilling.
 - (c) Clean cover material (VENM) be exempt from levy as it is an operational requirement and environmental control at most landfills.
 - (d) Waste and Sustainability Improvement Payment (WaSIP) return to Council's is to be more closely aligned to the levy liability Council's are subjected to. Tweed Shire Council, based on a static tonnage to landfill, has a levy liability of approximately \$18 million over the current life of the levy (2015/2016). A return to Tweed Shire Council in the form of WaSIP will be approximately \$2 million.
8. Statutory DA Fees
- (a) An immediate review Statutory Development Application Fees by increasing them by 38.13% to recognise the impact of increased costs in assessing and processing them such as the Local Government Award increases since 2000; and
 - (b) The introduction of an annual indexation to Statutory Development Application Fees to be determined by either Local Government State Award, CPI or IPART; OR
 - (c) The introduction of a user pay system for development applications.
9. Kirkwood Road
- Funding for construction of the Western Stage of the Kirkwood Road project, including Pacific Highway Overpass, Northbound interchange off ramp and extension of Kirkwood Road to Fraser Drive, estimated to cost \$22M.
10. Pensioner Rebates
- (a) Review the funding model of the pensioner rebate scheme, noting the study by the University of New England ISSN 1835-761X;
 - (b) Liaise with the Commonwealth Government to devise a more equitable rebate scheme taking into consideration the spatial contexts of where pensioners reside, average income of those localities and intergenerational equity for self funded retirees and general ratepayers; and
 - (c) Review the current maximum rebates which have not changed since 1989 so that pensioners who are cash flow poor are compensated with general inflation to the rates and that these amounts be increased or indexed only in the context of local governments not being further disadvantaged or having to further meet this unfunded cost imposition.

11. Council seeks a view on Council's decision on Byrrill Creek Dam.
 12. Council seeks a view on continuation of Part 3A and the Joint Regional Planning Panels and improvements for better environmental outcomes from the Native Vegetations Act.
- B. Forward the projects described in Items 1, 2, 5, 6, 7, 8, 10 and 12 above as motions to the LGSA conference, excepting Items 3, 4, 9, and 11 which are local projects.

The Motion was **Carried**

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

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

10 [PR-CM] Tweed Development Control Plan Section a8 - Tweed Brothels

822

Cr D Holdom
Cr K Skinner

RESOLVED that:

1. Draft Tweed Development control Plan 2008, Section A8 - Tweed Brothels Code by publicly exhibited for a period of 60 days and in accordance with the Environmental Planning and Assessment 1979.
2. Following public exhibition of Draft Tweed Development Control Plan 200, Section A8 - Tweed Brothels Code, and having regard to matters arising from the public consultation and any submissions received, a further report be submitted to Council seeking final adoption of the Plan.
3. The General Manager writes to the NSW Minister for Planning seeking the development of a new licensing system for the operators of brothels, similar to the current licensing system for the owners of licensed premises, to include probity, licensing, identification tracking, compliance fees and checks and regular policing.

The Motion was **Carried**

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

11 [PR-CM] Tweed Development Control Plan Section B23 - Hastings Point Locality Based Development Code

823

Cr B Longland

Cr K Milne

RESOLVED that:

1. Council receives and notes the amendments to the publicly exhibited Draft Tweed Development Control Plan, Section B23 - Hastings Point Locality Based Development Code, arising from the review of public consultation submissions.
2. Council adopts the exhibited Draft Tweed Development Control Plan, Section B23 - Hastings Point Locality Based Development Code, as amended, and provided as an attachment to this report, and resolves to give public notice of the Plan's adoption in accordance with Clause 21(2) of the Environmental Planning and Assessment Regulation 2000.
3. Section 4.1.3.6 paragraph 6 (Page 87) be replaced with the following:
 - *"Where Council will consider a residential flat building on or behind the beach dune area or that is otherwise visually prominent to or from the beach, estuary or headland, it shall be a maximum of 8m (2 storeys) in presentation to the beach, estuary, headland or in combination, whichever applies.*
 - The remainder of the site can be a maximum of 10m (3 storeys) with the third level to be a maximum footprint of 50% of the internal spaces below".*
 - Figure 4.8 (Page 86) be deleted from the Plan.
 - Figure 5.2 (Page 161) of the Plan be amended so that the far right mid layer white box is dropped to be in line with the white box immediately adjacent to it.
 - The wording of control 3. of Part 4.2.3.6 – Subdivision Control 3 (page 105) be amended to read as follows:
 - “3. A new public park located outside of the required vegetated riparian buffer is to be considered.”
4. Council forwards a copy of the adopted Tweed Development Control Plan, Section B23 - Hastings Point Locality Based Development Code, to the Director-General of the NSW Department of Planning in accordance with Clause 25AB of the Environmental Planning and Assessment Regulation 2000.

The Motion was **Carried**

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

A NOTICE OF RESCISSION HAS BEEN RECEIVED ON THIS ITEM FROM CRS W POLGLASE, P YOUNGBLUTT AND K SKINNER

12 [PR-CM] Draft Tweed City Centre Local Environmental Plan

824

**Cr D Holdom
Cr B Longland**

RESOLVED that:

1. The report on Draft Tweed City Centre Local Environmental Plan be received and noted.
2. Council endorses the process of a concurrent finalisation of the Draft Tweed City Centre Local Environmental Plan and Draft Development Control Plan prior to any further report to Council seeking the endorsement of the re-exhibition of these plans.

TEMPORARY ABSENCE FROM MEETING

Cr D Holdom left the meeting at 04:57 PM

RETURN TO MEETING

Cr D Holdom has returned from temporary absence at 04:59 PM

825

AMENDMENT

**Cr K Milne
Cr B Longland**

PROPOSED that:

1. The report on Draft Tweed City Centre Local Environmental Plan be received and noted.
2. Council endorses the process of a concurrent finalisation of the Draft Tweed City Centre Local Environmental Plan and Draft Development Control Plan prior to any further report to Council seeking the endorsement of the re-exhibition of these plans.
3. Council requests a meeting with key community stakeholders in the new year, prior to public exhibition, in an effort to resolve issues with the Draft Tweed Local Environment Plan.

The Amendment was **Lost**

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

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

The Motion was **Carried** (Minute No 823 refers)

FOR VOTE - Unanimous

13 [PR-CM] Development Application DA10/0612 for a Tennis Court at Lot 9 DP 1092500, No. 43 Sunnycrest Drive, Terranora

826

**Cr W Polglase
Cr D Holdom**

RESOLVED that:

- A. State Environmental Planning Policy No. 1 objection to clause 24 of the Tweed Local Environmental Plan 2000 regarding the setback of the tennis court from Terranora Road be supported and the concurrence of the Director General of the Department of Planning be assumed.
- B. Development Application DA10/0612 for a tennis court at Lot 9 DP 1092500, No. 43 Sunnycrest Drive, Terranora be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Site Plan prepared by Greg Millhouse except where varied by the conditions of this consent.
[GEN0005]
2. Stormwater or surface water runoff from the tennis court or battered banks shall not be concentrated onto adjoining residential premises and adequate drainage shall be provided to divert water away from batters.
[GENNS01]
3. The battered banks around the tennis court shall be landscaped to consolidate the surface and minimise erosion.
[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

4. A construction certificate application for works that involve any of the following:-
 - connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control workswill not be approved until prior separate approval to do so has been granted by Council under S68 of the Local Government Act.

- a) Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
- b) Where Council is requested to issue a construction certificate for civil works associated with a subdivision consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

[PCC1145]

PRIOR TO COMMENCEMENT OF WORK

- 5. The erection of a building in accordance with a development consent must not be commenced until:
 - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.
- 6. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0215]

[PCW0225]

- 7. Residential building work:

- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - * in the name and licence number of the principal contractor, and
 - * the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - * the name of the owner-builder, and
 - * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

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

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

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

[PCW0985]

DURING CONSTRUCTION

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

[DUR0005]

- 10. 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]

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

[DUR0375]

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

[DUR0395]

13. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

14. All cut or fill associated with the construction of the tennis court is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan Part A1 to the satisfaction of the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0835]

15. 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]

16. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction/demolition.

[DUR2185]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

17. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

USE

18. 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, lighting glare or the like.

[USE0125]

19. Hours of operation of the tennis court are restricted to the following hours: -
7.00 am to 10.00pm - Mondays to Fridays
8.00 am to 10.00pm - Saturdays, Sundays & Public Holidays

[USE0185]

20. Any external artificial lighting to the tennis court shall be shielded where required to the satisfaction of Council's General Manager or delegate to ensure that the spill of light or glare from such lighting does not create a nuisance to any adjoining or neighbouring premises or to traffic using Terranora Road

[USENS01]

The Motion was **Carried**

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

AGAINST VOTE - Cr D Holdom, Cr K Milne

- 14 [PR-CM] Land and Environment Court Judgement relating to Development Application DA10/0020 for the Establishment of a Brothel at Lot 411 DP 859933, No. 36 Enterprise Avenue, Tweed Heads South

827

**Cr W Polglase
Cr D Holdom**

RESOLVED that the report on Land and Environment Court Judgement relating to Development Application DA10/0020 for the establishment of a brothel at Lot 411 DP 859933 No. 36 Enterprise Avenue, Tweed Heads South be received and noted.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

- 15 [PR-CM] Development Application DA02/1983.14 for an Amendment to Development Consent DA02/1983 for the Use of Property for Filming and Producing a Television Program at Lot 74, 77, 93 DP 755715, Dungay Creek Road, Dungay

828

**Cr D Holdom
Cr K Skinner**

RESOLVED that Development Application DA02/1983.14 for an amendment to Development Consent DA02/1983 for the use of property for filming and producing a television program at Lot 74, 77, 93 DP 755715, Dungay Creek Road, Dungay be approved and the conditions be amended as follows:

1. Amend the Consent to state at the end:

The consent to expire on 1 June 2014.

2. Delete Condition No. 1A and replace it with new Condition No. 1B which reads as follows (Note: existing Condition 1B is to be re-numbered to Condition 1.1 – see Item 3 below):
 - 1B. The development shall be completed in accordance with the Statement of Environmental Effects; Drawing No 34504 prepared by Brown and Haan Surveyors and dated 27/11/2002; Drawing No 34505 prepared by Brown and Haan Surveyors; Plans No A1219 prepared by Edwin Shirley Stage Australia Pty Ltd dated 28/11/2002; Plan No A1-221102 Sheets 1 & 2 prepared by Richard Harry Engineering Services and dated 11/2002; Plan No 232311 prepared by Waco Kwikform and dated 26/11/2002, except as amended by Drawing No.20345 Sheets 1 to 5 prepared by Brown and Haan and dated 26/2/2003; Plans and documentation prepared by Richard Harry Engineering Services dated 3/2/2003. Where amended the development shall be completed in accordance with Plan No.20345 Dwg 345C6 prepared by Brown and Haan dated 22/9/2003, and plans and documentation prepared by Richard Harry Engineering Services Pty Ltd dated 23/9/2003, except where varied by these conditions. Where amended the development shall be undertaken in accordance with Sheet Nos. 2,3 & 4 of Site Plan 20345 prepared by Brown & Haan Surveyors, Floor Plan Nos. B12052-01 & B12052-02, 4034531, BH5-1230, MP3630, 4036921_1, 4044234-01 and 4044417_01 prepared by Ausco Building Systems and submitted with the amendment application dated 9 September 2006, and Dungay Creek Road Environmental Management Plan prepared by Ecosure dated June 2008 (and any subsequent amendments) and the Site Management Plan as submitted on 27 August 2010.
3. Delete existing Condition No. 1B, then re-number and amend the condition as Condition 1.1 which reads as follows:
 - 1.1 Prior to commencement of filming in the 2011 Filming Session the applicant is to provide to Council a Flora and Fauna Assessment report detailing results of survey undertaken in accordance with the Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities - Working Draft dated November 2004 (DEC 2004) for approval by Director Planning and Regulation. Survey is to stratify the site and sample each stratification unit but is to concentrate effort on 'use' areas and their surrounds, including activity nodes, trials areas and helicopter pad. Particular targeted survey is to be undertaken to determine species' reliance upon particular sites or localities (such as important roost or home range habitat) within parts of the site that are, or are intended to be, used during any part of the filming or associated activities or where native vegetation is proposed to be cleared. Direct and indirect impacts and Key Threatening Processes on native flora and fauna must be considered and recommendations for impact avoidance formulated, including a training and education package for site employees.

4. In order to be consistent with the numbering of the conditions, amend existing Condition 1C by re-numbering the condition to Condition 1.2 as follows:
1.2 Prior to commencement of the filming in the 2008/2009 Filming Session the applicant is to obtain a current approval to operate an on-site sewerage management system.
5. The following new GENERAL condition is to be ADDED as Condition 1.3:
1.3 Prior to commencement of filming in the 2011 Filming Session the applicant is to provide to Council a Habitat Restoration Plan in general accordance with Council's draft guidelines (attached) as applicable to the use, for approval by Director Planning and Regulation. The Plan is to target removal of weed species from the areas under use and their surrounds and is to detail methods to encourage natural regeneration of these areas. Works are to be implemented in accordance with the approved Habitat Restoration Plan throughout the consent period.
6. Delete Condition 4A and replace it with Condition 4B which reads as follows:
4B. Relevant recommendations within the approved Flora and Fauna Assessment Report referred to within Condition 1.1A shall be included within a revised Environmental Management Plan within four (4) weeks of the approval of the Flora and Fauna Assessment Report.

Any removal or relocation of protected fauna on the property shall only be undertaken in accordance with scientific licence or under written advice from the Department of Environment, Climate Change and Water. No planting of exotic species or weeds is to occur on the site. Any introduced fauna is to be sourced from agents certified to be free of pests and diseases with potential to impact native fauna, in particular introduction of Plague Minnow or Mosquito Fish (Gambusia holbrooki) with aquatic species; chytrid fungus causing the disease chytridiomycosis with amphibians; Psittacine circoviral (beak & feather) disease with birds and Phytophthora cinnamomi with plants.
7. Delete Condition 34A and replace it with Condition 34.1 which reads as follows:
34.1 The Dungay Creek Road Environmental Management Plan prepared by Ecosure dated June 2008 is to be amended to include Tweed Shire Council to receive Environmental Compliance Reports at the end of each 'wrap-up' period of filming, inclusive of the 2010/2011 filming season. The Environmental Management Plan is to be amended to include Tweed Shire Council to receive a copy of the completed environmental compliance checklist, following each site visit.

8. In order to be consistent with the numbering of the conditions, amend existing Condition 34B by re-numbering the condition to Condition 34.2 as follows:
34.2 Should Council receive complaints regarding use of the subject site Council can instigate the commencement of a Community Liaison Committee that consists of a representative of the local community, a representative of Granada Productions Pty Ltd, representatives from Council's Planning and Development Division, Environment and Community Services Division and Engineering and Operations Division. This Committee could monitor the performance of the Site Management Plan.
9. In order to be consistent with the numbering of the conditions, amend existing Condition 34C by re-numbering the condition to Condition 34.3 as follows:
34.3 If the Community Liaison Committee is formed a community liaison officer and community contact phone number shall be available on a 24 hour basis on the days of the production (including 24 hours pre and post the commencement of the production). Details of the name of the contact person and the contact telephone number must be provided to Council, locally advertised and affected residents notified of these details by means of an individual letter drop to each household.
10. Delete Condition 37 which reads:
37. Adequate storage of an on-site potable water supply shall be provided at all times.
11. The following new USE condition is to be ADDED as Condition 44.1:
44.1 Water supplied for human consumption must comply with the NSW HEALTH Private Water Supply Guidelines 2008 and the Australian Drinking Water Guidelines published in 2004 by the National Health and Medical Research Council. Registration of the premises shall be maintained with Tweed Shire Council's Public Health Register for Private Water Suppliers including payment of associated fee.

The Motion was **Carried**

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

16 [PR-CM] Development Application DA10/0430 for the Erection of a Second Dwelling to Create a Dual Occupancy at Lot 494 DP 755740, No. 15 Adelaide Street, Tweed Heads

829

Cr D Holdom
Cr K Milne

PROPOSED that Development Application DA10/0430 for the erection of a second dwelling to create a dual occupancy at Lot 494 DP 755740, No. 15 Adelaide Street, Tweed Heads be refused for the following reasons:

1. The proposed development does not comply with Development Control Plan A1: Residential and Tourist Development Code (Part B), in particular:
 - Rear setback
 - Rear deep soil zone
 - Impermeable site area
 - Floor space ratio
 - Overshadowing
2. The proposed development does not comply with Development Control Plan A2: Site Access and Parking Code, in particular:
 - On-site car parking
 - Driveway access
3. In accordance with Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed development is not considered to be compliant with Environmental Planning Instruments.

It is Council's view that the proposed development does not satisfy the provisions contained within:

The Tweed LEP 2000:

- Clause 4: Aims of this plan - – proposed density of the site is not compatible with the existing and future streetscape and amenity of the area
 - Clause 8(1): Consent Considerations - the proposal sets an unacceptable precedent for densification of steep residential areas
 - Clause 11: Zoning - the proposal does not achieve a good urban design outcome.
4. Pursuant to Section 79C (1) (c) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed site is not considered suitable for the proposed development.

The use of the rear portion of the subject site for the location of a second dwelling results in an overdevelopment of the site. This is considered an unacceptable outcome for the site due to its requirement for multiple variations to development controls, unsupported access from the laneway and impact upon existing residential uses within close proximity of the site.

5. In accordance with Section 79C (1) (e) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed development is not considered to be in the public interest.

It is in the broader general public interest to enforce the standards contained within the Development Control Plan 2008 and Tweed LEP 2000 specifically as it

relates to residential development controls and the objectives of the 2(b) Medium Density Residential zone.

830

AMENDMENT

Cr K Skinner
Cr W Polglase

RESOLVED that this item be deferred to schedule a workshop to include consideration of this Development Application in addition to Sellicks Lane.

The Amendment was **Carried**

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

AGAINST VOTE - Cr B Longland, Cr K Milne

The Amendment on becoming the Motion was Carried - (Minute No 830 refers)

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

AGAINST VOTE - Cr B Longland, Cr K Milne

17 [PR-CM] Development Application DA10/0552 for a Proposed Subdivision to Create a Public Road, Associated Acoustic Fencing and Residual Lot at Lot 12 DP 830659, Chinderah Road, Chinderah

831

Cr D Holdom
Cr K Skinner

PROPOSED that Development Application DA10/0552 for a proposed subdivision to create a public road, associated acoustic fencing and residual lot at Lot 12 DP 830659, Chinderah Road, Chinderah be approved subject to the following conditions:

"DEFERRED COMMENCEMENT"

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

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

SCHEDULE "A"

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

- A. The developer shall submit to Council an engineering design for all acoustic fencing (maximum 2.5m high) that provides for the adequate flow of flood water in both directions through the fence in order to prevent significant adverse impacts on adjoining properties, while maintaining the required acoustic properties. This design shall be certified by both a qualified hydraulic consultant and a qualified acoustic consultant, and be to the satisfaction of Council's General Manager or his delegate.
- B. The developer shall to submit to Council an asset handover report for all acoustic fencing assets in the public realm. The report must provide Council with a funding proposal that renders the assets revenue neutral to Council for its design life, to the satisfaction of Council's General Manager or his delegate, in order for Council to accept ownership of the assets.
- C. A Habitat Restoration Plan relating to a specific site and approved by Council's General Manager or his delegate which demonstrates adequate replacement on a 10 to 1 (gained to lost) basis of the sub-mature Forest Red Gum (*Eucalyptus tereticornis*) and Pink Bloodwood (*Corymbia intermedia*) impacted by the proposed development. The Habitat Restoration Plan must include:
- a schedule and timing of works to be undertaken
 - written agreement from the owner of the agreed site to planting and/or restoration works on the land
 - a suitable protection mechanism on the land to ensure the trees are protected in perpetuity
 - a legally binding commitment by the consent holder to funding and/or undertaking the proposed works
 - a statement of commitment by the consent holder that the works will be completed by qualified and experienced bush regeneration personnel.
- D. A legally binding commitment by the developer to funding and/or undertaking a sufficient component of the works as detailed within the approved Plan and agreed by Council to offset the loss of Swamp Oak Floodplain Forest. The approved plan is the *Amended Rehabilitation/Restoration Plan for Elsie Street, Banora Point: Lot 1 DP285117* prepared by Planit Consulting dated March 2010.

SCHEDULE B

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

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects, plans approved by Schedule A of this consent and plans as detailed in the table below, except where varied by the conditions of this consent.

Title	Drawn	Dated
Proposed Subdivision Plan DWG Ozonest_sub_01/Rev 1	Planit Consulting	11/2010
Proposed industrial subdivision civil works plan – preliminary (SK5/Issue A)	Cozens Regan Williams Prove	07/2010
Proposed industrial subdivision intersection detail (SK7/Issue A)	Cozens Regan Williams Prove	07/2010

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. The level of fill placed on the site shall not exceed RL2.2m AHD.

[GENNS01]

5. Department of Environment, Climate Change and Water General Terms of Approval

- The applicant must comply with Part 6 of the National Parks and Wildlife Act 1974 (NPW Act) as amended, prior to commencing or during any ground disturbance or development works which is the subject of the development application.
- In the event that surface disturbance identifies a new Aboriginal site, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and Aboriginal community representatives must be contacted to determine the significance of the object(s). The site is to be registered in the AHIMS (managed by DECCW) and the management outcome for the site included in the information provided to the AHIMS. The proponent will consult with the Aboriginal community representatives and the archaeologist to develop management strategies for all objects/sites, which will require DECCW approval prior to recommencing works.
- An application for a Care and Control Permit must be lodged along with any application for any Aboriginal objects that are located and moved in accordance with the NPW Act. The applicant is to consult with all of the registered Aboriginal stakeholders identified in the consultation process and

is to provide evidence of the support with any application for a care and control permit.

- If human remains are located in the event that surface disturbance occurs, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police are to be contacted immediately. No action is to be undertaken until NSW Police provide written notification to the proponent. If the skeletal remains are identified as Aboriginal, the proponent must contact DECCW Enviroline 131555 and no works are to continue here until DECCW provide written notification to the proponent.
- The applicant must continue to consult with and involve all Aboriginal representatives for the duration of the project, in relation to the ongoing management of the Aboriginal cultural heritage matters associated with this project. Evidence of this consultation must be collated and provided to the consent authority upon request.
- The applicant shall provide fair and reasonable opportunities for the local Aboriginal community to monitor the initial earth moving/construction activities associated with this project.

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. 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]

7. 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]

8. 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]

9. 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]

10. 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.

Intersection Works

- (a) The proposed intersection with Chinderah Drive and the Ozone Street upgrade will be required to be designed in accordance Ausroads and drawing no. Sk 7 prepared by Cozens Regan Williams Prove titled 'proposed industrial subdivision ~ intersection detail', dated 7 October 2010.
- (b) A 1.2m reinforced concrete footpath 100mm thick on compacted road base is to be constructed along the full length of the proposed road located in the Ozone Street reserve.

Road Works

- (c) Construction of an urban bitumen sealed road formation with upright kerb & gutter to a 9m sealed pavement width within a 17m road reserve width as per Council's road works standards for an access street with a bus route.
- (d) Kerb and guttering is to be provided on both sides for the full length of the road. An adequately sized stormwater quality treatment device is also to be provided for the subdivision.

Stormwater

- (e) The proposed drainage system shall be designed to collect runoff from the northern side of the road formation and shall avoid longitudinal lengths of pipework underneath the road carriageway. All connection points to the open drain shall be designed and constructed with headwalls and scour protection. All drainage shall be designed and constructed in accordance with TSC's Development Design Specification D5 - Stormwater Drainage Design.
- (f) The proposed box culverts located over the existing open drain shall be designed to cater for wheel loads from heavy industrial vehicles. Geotechnical certification is to be provided prior to the construction certificate to demonstrate that the bearing capacity of the underlying soil is adequate to ensure no subsidence will occur under these loads.

Sewer

- (g) All common rising mains shall be located in road reserve. The developer shall provide a connection for each lot to be serviced by pressure sewer within the lot to be served in accordance with Council's standard specifications and drawings. The location of connection of the rising main to sewerage shall be determined in consultation with Council during preparation of the engineering design plans so as to minimise the length of rising main so as to reduce any potential odour and septicity issues.
- (h) All lots within the development shall be provided with a connection to Council's Sewerage System.

General

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

[PCC0875]

11. 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]

12. 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.

[PCC1105]

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

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

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

[PCC1155]

- 14. 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 prior to the issue of a Construction Certificate. The plan shall be compiled in collaboration with the owners of adjoining Lot 109 DP 755701 and submitted plan shall include landscaping along both sides of the acoustic fence (i.e.: within Lot 12 DP 830659 and adjoining Lot 109 DP 755701) for the entire length of the road reserve.

Prior to installation of such landscaping, written owners consent from the owners of Lot 109 DP 755701 shall be obtained.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

- 15. 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]

- 16. 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.

[PCW0375]

- 17. 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]

18. 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]

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

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

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

[PCW0985]

20. Prior to the commencement of works on the access road and associated infrastructure works an inspection is to be arranged with Council's Environmental Health Officer to ensure the implementation of the Acid Sulfate Soil Management Plan prepared by HMC Environmental Consulting Pty Ltd dated 18 November 2010 is undertaken.

[PCWNS01]

21. Commencement of works in accordance with the approved Habitat Restoration Plans and legally binding agreement as detailed in Schedule A must be demonstrated prior to clearing of the Swamp Oak Floodplain Forest vegetation within Ozone Street road reserve or the Forest Red Gum (*Eucalyptus tereticornis*) and Pink Bloodwood (*Corymbia intermedia*) within Chinderah Road road reserve.

[PCWNS02]

DURING CONSTRUCTION

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

[DUR0005]

23. 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]

24. 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]

25. 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]

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

[DUR0815]

27. 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]

28. 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]

29. 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]

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

[DUR1045]

31. 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]

32. 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]

33. 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]

34. 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]

35. 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]

36. 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]

37. The applicant shall obtain the written approval of Council to the proposed road/street names and be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.

Application for road naming shall be made on Councils Property Service Form and be accompanied by the prescribed fees as tabled in Councils current Revenue Policy - "Fees and Charges".

The application shall also be supported by sufficient detail to demonstrate compliance with Councils Road Naming Policy.

[DUR2035]

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

[DUR2285]

39. 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]

40. 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]

41. 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]

42. All works associated with the access road and associated infrastructure is to be undertaken in accordance with the Acid Sulfate Soil Management Plan prepared by HMC Environmental Consulting Pty Ltd dated 18 November 2010.

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

[DURNS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

44. 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]

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

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

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

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

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]

46. 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]

47. 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]

48. 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]

49. 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]

50. 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]

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

- (a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.
- (b) A Section 88B restriction to user shall be placed on the land title of each new allotment to limit site coverage of structures and permanent improvements to retain a minimum of 50% of the area available for flood flow."
- (c) A Positive Covenant for each allotment sewered by a pressure sewer system, enabling Tweed Shire Council with rights to construct, install and maintain the pressure sewerage infrastructure in accordance with the following terms:

TERMS OF PUBLIC POSITIVE COVENANT

1. *Pressure sewerage reticulation infrastructure is to be constructed within the land referred to herein and such infrastructure will comprise a pump station, valve pit, control panel and associated pipelines excluding gravity house connections and plumbing,*
2. *Such infrastructure is to be supplied by Tweed Shire Council at commencement of construction of a dwelling on the land referred to herein.*
3. *All costs in relation to the installation of the pressure sewer reticulation infrastructure within the land referred to herein will be borne by Tweed Shire Council.*
4. *The control panel for the pumping station is to be wired into the household switchboard by a registered electrician and all electricity to operate the control panel and pump station shall be supplied from the household switchboard. All costs in relation to the running of the pressure sewerage reticulation are to be borne by the registered proprietor.*

5. *The pressure sewer infrastructure will at all times remain the property of Tweed Shire Council to be inspected, serviced, repaired and maintained in good working order only by Tweed Shire Council*
6. *Tweed Shire Council shall have the right to enter upon the land referred to herein with or without equipment, at all reasonable times to inspect, construct, repair, service and maintain in good working order all pressure sewerage reticulation infrastructure in or upon the said land pursuant to "Power of Entry" provisions under sections 191 and 191A of the NSW Local Government Act, 1993. This right to enter is restricted to the land in which the pressure sewerage infrastructure is placed for the time being and includes any points of egress or ingress to or from the said land.*
7. *The registered proprietor of the land referred to herein shall not construct any type of development, including external buildings, swimming pools or permanent structures which may interfere with the sewerage reticulation infrastructure, or impede access to any part of the sewerage reticulation infrastructure for the purposes of repair, maintenance and service.*
8. *If at any time it becomes necessary to relocate any part of the sewerage reticulation infrastructure for the purposes of construction of external buildings, swimming pools or building extensions and/or modifications Tweed Shire Council will not object to the relocation of the existing sewer pump station or associated pipeline providing that the registered proprietor makes the necessary application to Tweed Shire Council as the consent authority to modify the existing sewerage reticulation infrastructure and upon the registered proprietor obtaining development consent to do so. The registered proprietor will bear all costs in relation to the application and the re-location which is to be carried out by Tweed Shire Council.*
9. *The registered proprietor shall be responsible for notifying Tweed Shire Council when maintenance, repair, relocation or service is necessary on the sewerage reticulation infrastructure.*
10. *Should any part of the sewerage reticulation infrastructure be damaged by the registered proprietor or by any person who is a servant, workman, tenant, invitee, employee, or agent of the registered proprietor Tweed Shire Council will repair the damage at the cost of the registered proprietor.*

11. *The registered proprietor shall indemnify Tweed Shire Council and any adjoining landowners against any damage and injury to their land, property or person arising from the failure of any component of the sewerage reticulation infrastructure due to the negligent use or misuse of the sewerage reticulation system by the registered proprietor or any person who is a servant, workman, tenant, invitee, employee or agent of the registered proprietor.*
12. *Tweed Shire Council shall indemnify the registered proprietor against all damage and injury to property and person (including any damage to the land referred to herein and any land adjacent to the land referred to herein) arising from the failure of any component of the sewerage reticulation infrastructure and its construction, inspection, repair, service and maintenance and or in entering upon and occupying the subject property for such purposes.*
13. *Any reference to Tweed Shire Council, excepting as consent authority, means its employees, agents, contractors, servants."*

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]

52. 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]

53. 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]

54. 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 - Sewerage Pump Station
 - (e) 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]

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

[PSC0925]

56. 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]

57. 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]

58. 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]

59. Electricity

- (a) The production of written evidence from the local electricity supply authority certifying that reticulation and energising of underground electricity 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]

60. For each lot serviced by a pressure sewer system, a capital contribution of \$14,800 shall be provided for the installation of each individual pressure sewer pump station prior to the issue of the subdivision certificate. Tweed Shire Council will then install the pump station at a suitable location within each lot at the building stage.

[PSCNS01]

61. Primary weeding and/or planting and establishment must be completed in accordance within approved Habitat Restoration Plans prior to issue of subdivision certificate.

[PSCNS02]

62. A permit under s198-202 of the Fisheries Management Act 1994 for dredge and reclamation activities must be sought prior to commencement of any dredging or reclamation activities within the drainage channel.
63. A permit under s205 of the Fisheries Management Act 1994 for harm to marine vegetation (seagrass, mangroves, kelp) must be sought prior to any activities which could result in harm to marine vegetation.
64. Before commencing any works or using any existing works for the purpose of Temporary Dewatering for Construction Purposes, a Controlled Activity Approval under the Water Management Act 2000 must be obtained from the Department of Environment, Climate Change and Water.

832

AMENDMENT

Cr K Skinner
Cr P Youngblutt

RESOLVED that:

1. This item be deferred to schedule a workshop during February between Council, the applicants, adjoining landholders directly affected and key community members representing Royal Pacific Caravan Park (1), Heritage Caravan Park Residents' Association (1), Chinderah Lakes Caravan Park (1), Chinderah Residents' Association (1) and the Roads and Traffic Authority.
2. The applicant be encouraged to pursue alternative access options.

The Amendment was **Carried**

FOR VOTE - Unanimous

The Amendment on becoming the Motion was **Carried** - (Minute No 832 refers)

FOR VOTE - Unanimous

18 [PR-CM] Development Application DA09/0006.01 for an Amendment to Development Consent DA09/0006 for a Four (4) Lot Industrial Subdivision, Construction of Part of Ozone Street and Associated Drainage at Lot 1 DP 102255, No. 16-18 Ozone Street, Chinderah

833

Cr D Holdom
Cr J van Lieshout

RESOLVED that:

1. This item be deferred to schedule a workshop during February between Council, the applicants, adjoining landholders directly affected and key community members representing Royal Pacific Caravan Park (1), Heritage Caravan Park Residents' Association (1), Chinderah Lakes Caravan Park (1), Chinderah Residents' Association (1) and the Roads and Traffic Authority.
2. The applicant be encouraged to pursue alternative access options.

FOR VOTE - Unanimous

19 [PR-CM] Development Application DA10/0480 for the Demolition of Existing Dwellings and Construction of a Function Centre at Lots 9 and 10 Section 4 DP 2974; Nos. 9 and 11 River Street, South Murwillumbah

834

**Cr D Holdom
Cr B Longland**

PROPOSED that Development Application DA10/0480 for the demolition of existing dwellings and construction of a function centre at Lots 9 and 10 Section 4 DP 2974; Nos. 9 and 11 River Street, South Murwillumbah be refused for the following reasons:

1. The application does not comply with the 3(c) Commerce & Trade zone objectives (within Tweed LEP 2000), as approval of a Function Centre would jeopardise the viability and function of the Murwillumbah business centre as adequate car parking cannot be supplied.
2. The application has failed to satisfy Clause 8(1) of the Tweed LEP 2000 specifically Clause 8(1)(c). The development will have an adverse cumulative impact in the shire created by lack of car parking spaces.
3. The application is not considered satisfactory with regard to parking and access. Adequate car parking has not been provided in accordance with Tweed Shire Council Development Control Plan Section A2 - Site Access and Parking Code.
4. The proposed function centre will have significant noise impacts on adjacent residential land uses. The proposed development exceeds the adopted noise criteria.
5. The applicant has not satisfactorily addressed the volume of stormwater being discharged from the site. An adequate stormwater management plan has not been proposed for the subject site.

835

AMENDMENT

**Cr J van Lieshout
Cr W Polglase**

RESOLVED that this item be deferred, with amended plans to be reported, at a future Council meeting.

The Amendment was **Carried**

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

The Amendment on becoming the Motion was **Carried** - (Minute No 835 refers)

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

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

836

Cr D Holdom
Cr B Longland

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

The Motion was **Carried**

FOR VOTE - Unanimous

21 [PR-CM] Consideration of Pursuit of Costs - Land and Environment Court Matter - Tweed Shire Council ats Those Best Placed Pty Ltd

837

Cr D Holdom
Cr B Longland

RESOLVED that Council instruct its legal representatives HWL Ebsworth to pursue the proprietors of Those Best Placed, Andrew Crowther and Sandra Schultz, for the costs incurred against Council for defending the matter.

The Motion was **Carried**

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

22 [PR-CM] On-site Sewage Management - Kielvale

838

Cr D Holdom
Cr B Longland

RESOLVED that the report on on-site sewerage management – Kielvale be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

23 [CNR-CM] Continued River Health Grant Program Implementation 2010-2011 Financial Year

839

Cr D Holdom

Cr B Longland

RESOLVED that Council approves the expenditure under its River Health Grants Program to assist the private land holders to undertake the projects listed in the table contained within this report.

The Motion was **Carried**

FOR VOTE - Unanimous

24 [CNR-CM] Proposed Biodiversity Grants

840

Cr D Holdom

Cr B Longland

RESOLVED that Council approves the expenditure under its Biodiversity Grant Program to assist the private landowners to undertake the projects listed in the table contained within the report.

The Motion was **Carried**

FOR VOTE - Unanimous

25 [CNR-CM] Water Metering and Billing for Duplexes and Triplexes

841

Cr D Holdom

Cr B Longland

RESOLVED that Council adopts a water service connection standard that:

1. Requires separate metering and billing for new class 1a duplex and triplex developments.
2. Allows separate metering and billing for existing class 1a duplex and triplex developments.

The Motion was **Carried**

FOR VOTE - Unanimous

26 [CNR-CM] Burringbar Mooball Sewerage Scheme - Purchase of Land for Sewage Pumping Station at Burringbar

842

Cr D Holdom

Cr B Longland

RESOLVED that Council:

1. Approves entering into a Contract for Sale for the purchase of an area of 240m² being part of Lot 1 in DP 1026551 for the sum of \$78,000 (GST exclusive).
2. Votes the funds for the purchase from the Burringbar Mooball Sewerage Scheme.
3. Executes all necessary documentation under the Common Seal of Council.

The Motion was **Carried**

FOR VOTE - Unanimous

27 [CNR-CM] Drinking Water Quality Policy

843

Cr D Holdom

Cr B Longland

RESOLVED that Council adopts the draft Drinking Water Quality Policy Version 1.0 as presented in this report.

The Motion was **Carried**

FOR VOTE - Unanimous

28 [CNR-CM] Contract EC2010-133 Various Sewer Main Rehabilitation at Murwillumbah

844

**Cr D Holdom
Cr B Longland**

RESOLVED that:

1. The tender from Insituform Australia Pty Ltd for contract EC2010-133 Various Sewer Main Rehabilitation at Murwillumbah be accepted to the value of \$243,686.40 exclusive of GST.
2. The General Manager be given delegated authority to approve variations up to 20% above the initial contract price. Any variations be reported to Council on a quarterly basis.
3. ATTACHMENTS A and B are CONFIDENTIAL in accordance with Section 10A(2)(c) or Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

The Motion was **Carried**

FOR VOTE - Unanimous

29 [CNR-CM] Contract EC2010-137 Processing of E-Waste for North East Waste Forum Member Councils

845

**Cr D Holdom
Cr B Longland**

RESOLVED that:-

1. The tender from Sims Recycling Solutions for EC2010-137 Processing of E-Waste for North East Waste Forum Member Councils be accepted at the Schedule of Rates as detailed in the supplementary attachment.
2. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) or 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

The Motion was **Carried**

FOR VOTE - Unanimous

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

846

Cr D Holdom
Cr B Longland

RESOLVED that Council:-

1. with reference to the request from Tweed Community Group Inc, provides the Tweed Heads Civic Centre Auditorium free of charge for the Christmas Day Celebration Luncheon on 25 December 2010, and that Council's support is recognised with the following acknowledgement "This program has been supported by Tweed Shire Council".
2. with reference to the request from Richmond Tweed Inclusion Support Agency - Ballina District Community Services Association, provides the Banora Point Community Centre free of charge on 26 August 2010 and for two (2) meetings in 2011 (dates to be advised) for the Tweed Shire Child and Family Interagency, and that Council's support is recognised with the following acknowledgement "This program has been supported by Tweed Shire Council".

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM THE ACTING DIRECTOR ENGINEERING AND OPERATIONS

31 [EO-CM] EC2010-150 Expressions of Interest for the Supply of Tyres and Tyre Services

847

**Cr D Holdom
Cr B Longland**

RESOLVED that:

1. Tenders as submitted from Beaurepaires Murwillumbah, Millards Murwillumbah, Millards Tweed Heads, Tyres 4 U Murwillumbah and Tweed Heads Franchises be accepted for the supply of Tyres and Tyre Services under a Panel of Providers arrangement using the New South Wales Government Contract 367 and Ancillary Service Charges. The supply arrangement will be for a two year period from the date of determination with a possible twelve (12) month extension option.
2. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) or 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

The Motion was **Carried**

FOR VOTE - Unanimous

32 [EO-CM] EC2009-126 Supply of Manual Traffic Control Teams for Council Works: Contract Extension

848

**Cr D Holdom
Cr B Longland**

RESOLVED that:

1. Council accepts the revised contract rates for Contract EC 2009-126 for the Supply of Manual Traffic Control teams from Traffic Control Services Pty Limited and approves the contract extension for the period 2 January 2011 until 1 January 2012.

2. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) or 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

The Motion was **Carried**

FOR VOTE - Unanimous

ADJOURNMENT OF MEETING

Adjournment for dinner at 6.33pm.

RESUMPTION OF MEETING

The Meeting resumed at 7.35pm.

33 [EO-CM] Display of Goods on Footpaths

849

Cr W Polglase
Cr P Youngblutt

RESOLVED that this item be deferred for 12 months and seek consultation with the Chambers of Commerce and Traders and any other relevant parties.

850

AMENDMENT 1

Cr K Milne
Cr B Longland

PROPOSED that the Display of Goods on Footpaths Policy be referred to the Equal Access Committee, Chambers of Commerce and Traders for perusal and comment.

Amendment 1 was **Lost**

FOR VOTE - Cr B Longland, Cr K Milne

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

851

AMENDMENT 2

Cr K Milne

Cr B Longland

RESOLVED that this item be deferred for 12 months and seek consultation with the Chambers of Commerce and Traders and the Equal Access Committee.

Amendment 2 was **Lost**

FOR VOTE - Cr B Longland, Cr K Milne

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

The Motion was **Carried** (Minute No 849)

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

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

34 [EO-CM] EC2009-143 Six Monthly Progress Report - Jack Evans Boat Harbour Foreshore Embellishment Works

852

Cr W Polglase

Cr P Youngblutt

RESOLVED that:

1. The progress and expenditure of Contract EC2009-143 Jack Evans Boat Harbour Foreshore Embellishment Works project be received and noted.
2. A site inspection be scheduled for the end of January 2011.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

35 [EO-CM] Sale of Surplus Land - Quarries at Duroby and Chillingham

853

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council advertises its intentions to dispose of Duroby Quarry comprised in Lot 10 DP 262383 at Duroby Creek, Duroby and Chilcotts Quarry comprised in Lot 1 DP 794307 at Numinbah Road, Chillingham by public auction in accordance with Council's Policy on the Disposal of Council Land and invite written submissions on the proposal to be made within 21 days from the date of the advertisement.

The Motion was **Carried**

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

36 [EO-CM] Release of Easement to Drain Water 3 Metres Wide - Lake Kimberley, Banora Point

854

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:

1. Council, as the benefiting authority, approves the release of Easement to Drain Water 3 metres wide within Lot 8 in DP 1141215; and
2. All documentation is executed under the Common Seal of Council.

The Motion was **Carried**

FOR VOTE - Unanimous

37 [EO-CM] Naming of Council Public Bridges - Kingscliff and Kings Forest

855

Cr D Holdom
Cr P Youngblutt

RESOLVED that:

1. Council advises its intentions to name the bridge over Cudgen Creek, at the southern end of Sutherland Street, Kingscliff as "Cudgen Creek Bridge and to name the bridge on Tweed Coast Road, north of Dianella Drive at Kings Forest as "Old Bogangar Bridge" allowing one month for submissions or objections to the proposal; and
2. Council notifies the relevant authorities under the provisions of the Roads (General) Regulation 2000.

The Motion was **Carried**

FOR VOTE - Unanimous

38 [EO-CM] Cabarita Beach Surf Life Saving Club - Loan Agreement

856

Cr D Holdom
Cr P Youngblutt

RESOLVED that Council executes all necessary documentation relating to the loan to the Cabarita Beach Surf Life Saving Club Inc for the sum of \$56,730.76 being 50% of the Club's liability for Tweed Roads Contribution Plan, Shirewide Car Parking and section 64 contributions arising from their consent for the addition of a deck to the existing Club building under DA08/1171.

The Motion was **Carried**

FOR VOTE - Unanimous

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

857

Cr D Holdom
Cr P Youngblutt

RESOLVED that Council adopts Version 1.4 of Development Control Plan Section A3 - Development of Flood Liable Land, to repeal and replace the current version.

The Motion was **Carried**

FOR VOTE - Unanimous

40 [EO-CM] Amendment to Section 94 Plan No. 19 - Casuarina Beach Kings Forest

858

Cr D Holdom

Cr P Youngblutt

RESOLVED that:

1. Council adopts Draft S94 Plan No 19 – Casuarina Beach/Kings Forest Version 5 as a basis for exhibition and community discussion/consultation.
2. Draft S94 Plan No 19 - Casuarina Beach/Kings Forest Version 5 is exhibited as required by the Environmental Planning and Assessment Regulations.

The Motion was **Carried**

FOR VOTE - Unanimous

a40 [EO-CM] Jack Evans Boat Harbour Construction of Amenities Block

LATE ITEM

859

Cr D Holdom

Cr W Polglase

RESOLVED that Item a40 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

FOR VOTE - Unanimous

860

Cr D Holdom

Cr W Polglase

RESOLVED that :

1. Tenders be called for design and construction of the Amenities Block at Jack Evans Boat Harbour.

2. A development application be prepared and lodged for construction of the Amenities Block.
3. Funding be provided from Contributions Plan No. 26.
4. Appropriate adjustments be made to the December Quarterly Budget Review.
5. The ATTACHMENT be treated as CONFIDENTIAL in accordance with Section 10A(2)(c) of the Local Government Act, 1993, because it contains commercial information in relation to the costing for a proposed tender. Accordingly, disclosure of the information is not in the public interest.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

41 [TCS-CM] Council Meeting Dates for 2011

861

Cr J van Lieshout

Cr B Longland

PROPOSED that the Council Meeting Dates for 2011 be in accordance with Option 1 being:

Community Access	Council
20 January	25 January *
17 February	22 February
17 March	22 March
14 April	19 April
19 May	24 May
23 June	28 June
14 July	19 July
18 August	23 August
22 September	27 September
20 October	25 October
10 November	15 November
8 December	13 December

* Australia Day Public Holiday on Wednesday 26/1/2011

The Motion was **Lost**

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

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

862

Cr D Holdom
Cr P Youngblutt

RESOLVED that the Council Meeting Dates for 2011 be in accordance with Option 2 being:

Community Access	Council
13 January	18 January
10 February	15 February
10 March	15 March
14 April	19 April
12 May	17 May
16 June	21 June
14 July	19 July
11 August	16 August
15 September	20 September
13 October	18 October
10 November	15 November
8 December	13 December

The Motion was **Carried**

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

AGAINST VOTE - Cr J van Lieshout

42 **[TCS-CM] Legal Services Report as at 30 September 2010**

863

Cr D Holdom
Cr B Longland

RESOLVED that Council receives and notes the Legal Services Register as at 30 September 2010.

The Motion was **Carried**

FOR VOTE - Unanimous

43 **[TCS-CM] Monthly Investment Report for Period Ending 30 November 2010**

This item was dealt with in conjunction with the Addendum Report b43 at Minute Number 867.

a43 [TCS-CM] Community Strategic Plan

864

Cr D Holdom

Cr P Youngblutt

PROPOSED that:

1. The Community Strategic Plan 2011/2021 be adopted in accordance with Section 402(6) of the Local Government Act 1993, and
2. In accordance with Section 402(7) of the Local Government Act 1993, a copy of the Community Strategic Plan 2011/2021 be posted on Council's website and a copy made available to the Director-General of the Division of Local Government.
3. The ATTACHMENT 3 be treated as CONFIDENTIAL in accordance with Section 10A(2)(a) of the Local Government Act, 1993, because it contains personnel matters concerning particular individuals (other than councillors). Accordingly, disclosure of the information is not in the public interest.

865

AMENDMENT 1

Cr K Milne

Cr B Longland

PROPOSED that

1. The Community Strategic Plan 2011/2021 be adopted in accordance with Section 402(6) of the Local Government Act 1993, and
2. In accordance with Section 402(7) of the Local Government Act 1993, a copy of the Community Strategic Plan 2011/2021 be posted on Council's website and a copy made available to the Director-General of the Division of Local Government.
3. The ATTACHMENT 3 be treated as CONFIDENTIAL in accordance with Section 10A(2)(a) of the Local Government Act, 1993, because it contains personnel matters concerning particular individuals (other than councillors). Accordingly, disclosure of the information is not in the public interest.
4. Council includes in the Community Strategic Plan that they will establish a mechanism to determine the preferred population or environmental carrying capacity for the Tweed.
5. Council recognises the international significance of this national iconic landscape and biodiversity and emphasis on protection is provided accordingly.

6. Council promotes a carbon reduced and ecologically sustainable economy.

Amendment 1 was **Lost**

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

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

866

AMENDMENT 2

Cr K Milne

Cr B Longland

RESOLVED

A. That:

1. The Community Strategic Plan 2011/2021 be adopted in accordance with Section 402(6) of the Local Government Act 1993, and
2. In accordance with Section 402(7) of the Local Government Act 1993, a copy of the Community Strategic Plan 2011/2021 be posted on Council's website and a copy made available to the Director-General of the Division of Local Government.
3. The ATTACHMENT 3 be treated as CONFIDENTIAL in accordance with Section 10A(2)(a) of the Local Government Act, 1993, because it contains personnel matters concerning particular individuals (other than councillors). Accordingly, disclosure of the information is not in the public interest.

B. The following be included in the delivery program for the Community Strategy:

1. Council includes in the Community Strategic Plan that they will establish a mechanism to determine the preferred population or environmental carrying capacity for the Tweed.
2. Council recognises the international significance of this national iconic landscape and biodiversity and emphasis on protection is provided accordingly.
3. Council promotes a carbon reduced and ecologically sustainable economy.

Amendment 2 was **Carried**

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

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

Amendment 2 on becoming the Motion was **Carried** - (Minute No 866 refers)

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

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

b43 [TCS-CM] Monthly Investment Report for Period Ending 30 November 2010

867

Cr D Holdom

Cr B Longland

RESOLVED that in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at 30 November 2010 totalling \$150,213,567 be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

44 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 25 November 2010

868

Cr D Holdom

Cr B Longland

RESOLVED that the:-

1. Minutes of the Local Traffic Committee Meeting held Thursday 25 November 2010 be received and noted; and
2. The Executive Management Team's recommendations be adopted as follows

SOR4 Kingscliff High School Parking Issues

As per the Committee's recommendation being:

"That:

1. *The angle parking outside the Kingscliff High School on Oxford Street be endorsed.*
2. *'No Parking' signage 8.00am to 9.30am, 2.30pm to 4.00pm School Days be installed for approximately 60m along the cul-de-sac bulb (northern side).*

3. *'No Stopping' signage be placed for approximately 26m outside No. 24 Oxford Street at the corner near the cul-de-sac bulb."*

A1 Bione Avenue, Banora Point

As per the Committee's recommendation being:

"That:

1. *A continuity line be installed at the intersection of Oyster Point Road and Bione Avenue and double lines be installed up to the continuity line on Bione Avenue for a distance of approximately 10m.*
2. *'No Stopping' signage be installed on the eastern corner of Oyster Point Road and Bione Avenue at the site frontage of 34 Oyster Point Road."*

B2 Ourimbah Road, Tweed Heads West

As per the Committee's recommendation being:

"That:

1. *'No Parking' signage be placed around the inside kerb of the corner outside No. 23-25 Ourimbah Road.*
2. *Centreline road marking be placed around the corner outside No. 23-25 Ourimbah Road."*

B4 Dry Dock Road - Boyds Bay Caravan Park

As per the Committee's recommendation being:

"That:

1. *There is no objection to the installation of 'No Entry' signage at the current pavement marked 'No Entry' laneway near the Boyds Bay Caravan Park reception building.*
2. *The installation of directional (arrow) pavement markings within the one-way driveway also be considered to reinforce the 'No Entry' signage."*

The Motion was **Carried**

FOR VOTE - Unanimous

45 [SUBCOM] Minutes of Subcommittees/Working Groups not requiring a Council decision

The Minutes of the Subcommittees/Working Groups not requiring a decision of Council be received and noted.

ORDERS OF THE DAY

46 [NOM-Cr Polglase] Cabarita Locality Plan

869

**Cr W Polglase
Cr P Youngblutt**

PROPOSED that the Council brings forward the recommended rezoning and Local Environmental Plan (LEP) amendments identified in the Cabarita Locality Plan to be carried out within the Stage 1 LEP process so as to ensure the implementation of the adopted vision as outlined in the Development Control Plan (DCP) which has been in force since the end of 2007.

Note: In this regard the implementation of the suggested changes outline the Locality Plan will assist in stimulating continued investment and employment opportunities in Cabarita.

The Motion was **Lost**

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr B Longland

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

47 [NOM-Cr Polglase] Regional Funding

870

**Cr W Polglase
Cr D Holdom**

RESOLVED that Council arranges a meeting with Regional Development Australia - Northern Rivers (RDA-NR) to consider key community infrastructure projects for Tweed Shire. This meeting to be arranged to enable the Federal Member for Richmond, Justine Elliot, to be in attendance.

The Motion was **Carried**

FOR VOTE - Unanimous

48 [NOM-Cr Milne] Report on Daly Inquiry

DECLARATION OF INTEREST

Cr W Polglase declared an Interest in this item, left the Chamber at 9.15pm and took no part in the discussion or voting. The nature of the interest is that Cr W Polglase was the Mayor of Tweed Shire Council the subject of the Inquiry.

871

Cr K Milne

Cr B Longland

RESOLVED that Council brings forward a report on the recommendations of the Daly Inquiry the implementation of these recommendations and any outstanding issues.

The Motion was **Carried**

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

AGAINST VOTE - Cr P Youngblutt

ABSENT. DID NOT VOTE - Cr W Polglase

49 [NOM-Cr Milne] Noble Lakeside Vegetation and Court Appeal Issues

DISCLOSURE OF INTEREST

Cr W Polglase declared an Interest in this item, left the Chamber and took no part in the discussion or voting.

The nature of the interest is that Cr Polglase has a business involvement in the subject estate.

872

Cr K Milne

Cr B Longland

PROPOSED that Council brings forward a report on vegetation removal at Noble Lakeside Estate and the issues claimed in the Court Appeal of the Joint Regional Planning Panel approval.

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

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

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

ABSENT. DID NOT VOTE - Cr W Polglase

RETURN TO MEETING

Cr W Polglase has returned from temporary absence at 09:23 PM

50 [NOM-Cr Milne] National Iconic Landscape Strategy

873

Cr K Milne
Cr B Longland

RESOLVED that Council brings forward a report on developing a National Iconic Landscape Strategy to protect the National Iconic Landscape Values of the Tweed Shire including a review of the Scenic Landscape Evaluation Report.

TEMPORARY ABSENCE FROM MEETING

Cr P Youngblutt left the meeting at 09:27 PM

The Motion was **Carried**

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

AGAINST VOTE - Cr W Polglase

ABSENT. DID NOT VOTE - Cr P Youngblutt

51 [NOM-Cr Milne] Redecorating the Council Chamber

874

Cr K Milne
Cr K Skinner

PROPOSED that Council seeks advice from the cultural and arts staff and committees on low budget redecorating of the Council Chamber, including providing artworks from the Art Gallery's permanent collection and expanding the public gallery space or relocating the Council meetings to the auditorium.

RETURN TO MEETING

Cr P Youngblutt has returned from temporary absence at 09:28 PM

TEMPORARY ABSENCE FROM MEETING

Cr B Longland left the meeting at 09:29 PM

RETURN TO MEETING

Cr B Longland has returned from temporary absence at 09:31 PM

The Motion was **Lost**

FOR VOTE - Cr B Longland, Cr K Milne

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

52 [NOM-Cr Milne] Code of Meeting Practice

875

Cr K Milne
Cr K Skinner

RESOLVED that the **Code of Conduct** be amended in Part 2 Section 6.3 to include:

"Councillors are required to maintain high standards of respectful communication to staff, other Councillors and the public at all times. The Mayor is responsible for ensuring that Council meetings set an example to the public of best practice meeting standards."

The Motion was **Carried**

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

53 [NOM-Cr Milne] Visual and Audio Recording

876

Cr K Milne
Cr J van Lieshout

PROPOSED that Council brings forward a report on the possibility of improving audio recording and the screen display (including centring the display), and the possibility of providing visual recording of Council meetings in line with achieving Council's mission of transparency.

The Motion was **Lost**

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

QUESTION TIME

54 [QON-Cr Holdom] Future Water Augmentation

Councillor D Holdom asked can the General Manager:

1. Advise Council of the future costs associated with building the 36,000ML dam as opposed to the Net Present Value (NPV) figures?
2. Explain how the Water Unit would fund the costs?

3. Advise what loans the Water Unit currently carries, duration of loans, cost per annum of loans, would the current .15 cent per kilolitre per annum increase in cost of potable water rise exponentially at the time of the next review (2 years time) to fund the cost of this loan?
4. Advise what other matters the Water Unit applies its funding to, would other infrastructure (new and/or repair and maintenance of existing) be affected and any other matter the General Manager believes is relevant?

The Director Community and Natural Resources responded:

1. The estimated cost to construct the 36,000 ML dam at Byrrill Creek in today's dollars is \$67.4M. The NPV based on an 80 year analysis period was \$65.2M. This is a preliminary estimate and may not be inclusive of all requirements to undertake the work. This project's costs could be particularly sensitive to land and regulatory issues.
2. How the project is funded is dependant on when it is constructed and the Water Funds financial position at the time. The sooner the Dam is constructed the greater the likelihood it would be funded from loans and conversely the later it is constructed the less likelihood it would be funded from loans. The amount of loan funding is dependant on the timing of construction, section 64 income and the water pricing path chosen.
3. The Water Fund has a single loan totalling \$69.7M for a loan period of 30 years beginning September 2007. The annual loan repayments total \$5,794,128 which includes principle and interest. A comprehensive review of Water usage charges is undertaken every 5 years in line with the Developer Service Charges (section 64) review. However Water usage charges are reviewed each year based on the proposed 5 year pricing path and current and expected costs at the time. The next comprehensive review of charges is due in 2011/2012 for implementation from 1 July 2012 and it is expected that given an increase in the cost of new works and the operation of these new works that both the usage charge and developer charges will increase significantly. The calculation of these charges is complex and it is not possible to say what increase the loan repayments on a new dam might be attributed to an increase in water charges. Generally speaking however Developer related works are funded from developer contributions and loans are required for cashflow purposes.
4. The funding of the new dam needs to be considered in the context of the overall cash flow and financial position of the Water Fund. As with all major projects timing is critical and works are prioritised and staged to ensure the funds financial position is not compromised. The Water Funds financial position will be a significant factor in determining if and when a major project is to proceed.

55 [QON-Cr Skinner] Code of Conduct

Councillor K Skinner asked can the General Manager please advise if the code of conduct can be reviewed so that a cost recovery process can be initiated?

The General Manager responded that he will write to the Division of Local Government for advice prior to reporting back to Council.

56 [QON-Cr Milne] Dual Reticulation Kings Forest and Cobaki

Councillor K Milne asked can Council describe the issues surrounding the lack of incorporation of dual reticulation into the Kings Forest and Cobaki developments?

The Director Community and Natural Resources responded that following an extensive investigation and review process Council at its meeting of 17 February 2009 resolved to adopt a Demand Management Strategy for Greenfield sites that included BASIX with a 5KL rainwater tank with minimum 160 m² of roof area connected. A 3rd pipe option namely Dual reticulation was not mandated by Council but was encouraged. The developers of Kings Forest and Cobaki did not support the idea of a dual reticulation system within their development.

57 [QON-Cr Milne] Concerns in regard to the Secure Yield

Councillor K Milne asked can Council describe why the secure water yield is not considered to be secure in light of the predictions that Council has enough water supply to meet the current levels required in this planning horizon to 2036 under Council's Demand Management predictions?

The Director Community and Natural Resources responded that the adoption of a yield comes with inherent risk. It is impossible to predict future climatic conditions. Yields are determined based on past rainfall and evaporation conditions plus an allowance for the unknown. Councils' adopted interim water supply yield of 13,750 ML per year is calculated on the basis that there is the possibility that in an extreme drought event greater than anything ever recorded the system could fail.

The predictions of how long the current yield will serve the growing population are estimates based on the available data. The best case scenario is that our current water supply system could last until 2030. However as water consumption approaches the adopted yield the greater the risk is that the system will fail. Current water consumption is approximately 10,500 ML per year and the adopted yield is 13,750 ML per year.

58 [QON-Cr Milne] Partnering with the NSW Heritage Office

Councillor K Milne asked can Council provide advice on the opportunity to work with the NSW Heritage Office to provide Heritage advice for the cost of \$7,500 per annum and whether Council will initiate such a partnership?

The Director Planning and Regulation responded that he can confirm that local councils can apply for a variety of dollar for dollar funding opportunities through the Local Government Heritage Management Program administered by the Heritage Branch of the NSW Department of Planning.

In terms of advice on development assessment matters, the issue of a Heritage Advisor position within Council or a contracted service by an external provider has been previously discussed in various Councillor Workshops relating to annual budget planning. Officers have expressed the view that there is currently only minimal demand for heritage comment on development applications and new policy making, and that this service is generally satisfied through referral to Council's Urban Designer, or by seeking external expertise for more complex matters. Therefore, the creation of a new Heritage Advisor position is not considered to be justified at this point of time.

In terms of the opportunity for the funding of heritage study evaluations and related planning policy for the Tweed LGA, and as pointed out at the Councillors Workshop held on 26 October 2010, the Planning Reforms Unit has commenced investigations into the options available for the progression of the draft Community Based Heritage Study (CBHS) and opportunities to work with the NSW Heritage Council, on a dollar for dollar funding basis. A more detailed funding proposal will be submitted for Council's consideration as part of the 2011/2012 Budget and Management planning consultation with Councillors.

59 [QON-Cr Milne] Return Rate of Festivals Sponsored

Councillor K Milne asked can Council provide the economic return rate of the various festivals that Council is involved in sponsoring especially the larger events?

The General Manager responded with advice on economic return rates of the festivals for which council does have results.

60 [QON-Cr K Milne] Retrospective Development Approvals

DISCLOSURE OF INTEREST

Cr W Polglase declared an Interest in this item, left the Chamber and took no part in the discussion or voting. The nature of the interest is that Cr Polglase has a business relationship with the applicant.

Councillor K Milne asked: can Council provide their position on retrospective development approvals and how this relates to the amended approval granted to the Banora Point Caravan Park?

The Director Planning and Regulation responded that under the Environmental Planning Assessment Act 1979, retrospective development approvals are not permitted. Development consent is prospective.

For example, if a dwelling is built without approval it cannot be retrospectively approved. However if the dwelling is otherwise permissible and the applicant wishes to regularise it a development application could be submitted for the use of the structure as a dwelling and a concurrent building certificate application to enable assessment of the structural elements of the building. If approval is granted the dwelling becomes lawful from the date of approval not beforehand as such could undertake proceedings as well for the unauthorised work such as a fine.

Judicial review has determined that works already undertaken can be approved via a Section 96 application. This arises where development consent has been issued and the works carried out under the consent do not accord with the development consent. The options are to demolish or remove the works and carry out works in accordance with the consent or submit a s.96 application. The key requirement for S.96's is that the amended development is substantially the same as the original approved development.

Construction certificates cannot be issued for works undertaken without approval.

The most recent redevelopment plans for the former Banora Point Caravan Park site was the subject of three s.96 applications. The need for the applications was a direct result of how the Caravan Park was approved (which was over three separate applications). Subsequently, each consent needed to be amended to reflect the amended plans, which showed a revised allotment layout to reflect 148 caravan sites, rather than the previously approved 180 sites. This is effectively achieved by increasing the size of each individual site. The general road layout has remained similar to the original pattern.

The subject site has had an extensive development and compliance history which was earlier reported to Council on 18 November 2008 and 17 March 2009. The three S96 Applications to some extent sought to rectify the previous compliance matters and enable a lawful way forward for the development of the subject site.

In accordance with Council's previous resolutions for the subject site, the S96 Applications were reviewed by Council's Solicitors to assist the assessment of these applications. The legal advice presented a finely balanced argument. Upon careful review of the advice, Council Officers believed that there was scope for the three S96's to be considered in a lawful manner.

On the basis of an officers' report submitted to the 15 December 2009 Meeting, Council resolved to approve the three Section 96 applications.

RETURN TO MEETING

Cr Polglase has returned to the meeting at 9:48 PM.

RETIREMENT FROM MEETING

Cr B Longland left the meeting at 09:53 PM

CONFIDENTIAL COMMITTEE

877

Cr D Holdom

Cr P Youngblutt

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 - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr B Longland

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 PLANNING AND REGULATION IN COMMITTEE

1 **[PR-CM] Equestrian Pad Compliance Matter- Lot 7 DP 826941 No. 308
Tomewin Road, Dungay**

REASON FOR CONFIDENTIALITY:

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

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

C 63

That Council advises in writing the owners of No's. 308 and 420 Tomewin Road, Dungay that Council has received legal advice regarding the equestrian pad and that no further action will be undertaken by Council.

C 64

AMENDMENT

That this item be deferred.

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

FOR VOTE - Cr P Youngblutt, Cr K Milne, Cr J van Lieshout
AGAINST VOTE - Cr W Polglase, Cr D Holdom, Cr K Skinner
ABSENT. DID NOT VOTE - Cr B Longland

PROCEDURAL MOTION

C 65

That the Motion be put.

The Procedural Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr B Longland

The Motion was **Carried** on the casting vote of the Mayor(Minute No C63 refers)

FOR VOTE - Cr W Polglase, Cr D Holdom, Cr K Skinner
AGAINST VOTE - Cr P Youngblutt, Cr K Milne, Cr J van Lieshout
ABSENT. DID NOT VOTE - Cr B Longland

A NOTICE OF RESCISSION HAS BEEN RECEIVED ON THIS ITEM FROM CRS P YOUNGBLUTT, J VAN LIESHOUT AND K MILNE.

REPORTS FROM THE ACTING DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

2 [EO-CM] Land Acquisition for Road - Marshall Street and Kyogle Road, Uki

REASON FOR CONFIDENTIALITY:

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

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

DISCLOSURE OF INTEREST

Cr J van Lieshout declared an Interest in this item, left the Chamber and took no part in the discussion or voting. The nature of the interest is that Cr J van Lieshout owns property in the vicinity of the subject property.

C 66

That:

1. Council approves the acquisition of Lots 1-4 in DP 1148830 under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act, 1993 and the making of the necessary application to the Minister and/or Governor;
2. Lots 1-3 in DP 1156967 be dedicated as road following gazettal of the acquisition; and
3. Compensation for the acquisition be approved as noted in the body of the report; and
4. All necessary documentation be executed under the Common Seal of Council.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr B Longland; Cr J van Leishout

882

Cr D Holdom

Cr P Youngblutt

RESOLVED that the recommendations of the Confidential Committee be adopted.

The Motion was **Carried**

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

ABSENT. DID NOT VOTE - Cr B Longland

There being no further business the Meeting terminated at 10.24pm.



Minutes of Meeting Confirmed by Council
at Meeting held

Chairman

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