



TWEED SHIRE COUNCIL

MINUTES

ORDINARY COUNCIL MEETING

Tuesday 15 September 2009

Mayor: Cr W Polglase

**Councillors: Cr P Youngblutt, Deputy Mayor
Cr D Holdom
Cr B Longland
Cr K Milne
Cr K Skinner
Cr J van Lieshout**

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 4.55pm.

IN ATTENDANCE

Cr Warren Polglase (Mayor), Cr Phil Youngblutt (Deputy Mayor), Cr Barry Longland, Cr Dot Holdom, Cr Katie Milne, Cr Kevin Skinner, Cr Joan van Lieshout,

Also present were Mr Mike Rayner (General Manager), Mr Troy Green (Director Technology & Corporate Services), Mr Ian Kite (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 Maree Morgan (Minutes Secretary).

CONFIRMATION OF MINUTES

1 Minutes of the Ordinary and Confidential Meeting of Council held Tuesday 18 August 2009

228

Cr K Skinner
Cr D Holdom

RESOLVED that the Minutes of the Ordinary and Confidential Council Meetings held Tuesday 18 August 2009 be adopted as a true and accurate record of proceedings of that meeting.

The Motion was **Carried**

FOR VOTE - Unanimous

APOLOGIES

Nil.

DISCLOSURE OF INTEREST

Cr D Holdom wishes to declare a perceived non-pecuniary interest in Item 10 of the Agenda in accordance with Section 7.16(c) of the Code of Conduct.

This declaration is due to personal matters.

Cr W Polglase wishes to declare a perceived non-pecuniary interest in Item 10 of the Agenda in accordance with Section 7.16(c) of the Code of Conduct.

This declaration is due to personal matters.

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

Nil.

SCHEDULE OF OUTSTANDING RESOLUTIONS

2 Schedule of Outstanding Resolutions as at 15 September 2009

229

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that Schedule of Outstanding Resolutions report be received and noted, including advice that Item 11. *[PR-CM] Development Application DA09/0139 for Construction of a Carport for Four (4) Cars at Existing Retirement Village at Lot 214, 215, 216 DP 251004, No. 1-5 Tupia Avenue, Tweed Heads* has been withdrawn by the applicant.

The Motion was **Carried**

FOR VOTE - Unanimous

MAYORAL MINUTE

3 [MM] Mayoral Minute for the period 11 August 2009 to 7 September 2009

230

**Cr D Holdom
Cr W Polglase**

RESOLVED that:-

1. The Mayoral Minute for the period 14 August 2009 to 7 September 2009 be received and noted.
2. The attendance of Councillors at nominated Conferences be authorised.
 - 21-23 Sep 09 - River Symposium, Brisbane Convention & Exhibition Centre, (Cr Katie Milne attending)
 - 07-09 Oct 09 - Local Government Aboriginal Network (LGAN) – Mantra Ettalong Beach, Gosford, NSW – (Cr Dot Holdom attending)

- 19-20 Oct 09 - 2009 Tourism Symposium – Byron at Byron Resort, Byron Bay (Cr Joan van Lieshout attending)
- 03-06 Nov 09 - 18th NSW Coastal Conference – “Staying Afloat, Rising to the Challenges” – Ballina RSL Club, Ballina (Cr Barry Longland and Cr Katie Milne attending)

The Motion was **Carried**

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

ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

4 [GM-CM] Code of Conduct Review

231

Cr D Holdom
Cr P Youngblutt

RESOLVED that Council receives and notes the report on the Code of Conduct Review.

232

AMENDMENT

Cr K Milne
Cr B Longland

PROPOSED that this item relating to the Code of Conduct Review be deferred for further discussion.

The Amendment was **Lost**

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

The Motion was **Carried** (refer Minute No 231)

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

AGAINST VOTE - Cr B Longland, Cr K Milne

5 [GM-CM] Memorandum of Understanding with Industry & Investment NSW

233

**Cr K Skinner
Cr P Youngblutt**

RESOLVED that Council enters into a Memorandum of Understanding with Industry & Investment NSW.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR PLANNING & REGULATION

6 [PR-CM] Construction Site Operating Hours

234

**Cr K Skinner
Cr P Youngblutt**

RESOLVED that Council adopts the following as a practice with respect to construction times for construction or demolition works so that unless prior approval has been obtained from Council, construction and or demolition work may only be carried out between the hours of 7.00am and 6.00pm Monday to Saturdays and no construction or demolition work may be carried out on Sundays or public holidays.

The Motion was **Carried**

FOR VOTE - Unanimous

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

235

**Cr K Skinner
Cr P Youngblutt**

RESOLVED that Council notes the August 2009 Variations to Development Standards under State Environmental Planning Policy No 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

8 [PR-CM] Local Government & Shires Association Request for Funds for Berrigan Shire Legal Costs for a Rural Subdivision Appeal

236

**Cr D Holdom
Cr B Longland**

RESOLVED that:

1. The General Manager writes to the Local Government Association of NSW in respect of the request seeking monetary assistance with Berrigan Shire Council's legal costs for a Land and Environment Court appeal regarding a rural subdivision advising that in this instance it is not considered that monetary support is warranted.
2. The Director of Planning and Regulation reviews Section A5 (Subdivision Manual) of Council's Development Control Plan to ensure that the creation of lots with portions separated by significant distances (or in different Shires) for creation of dwelling entitlements, is prevented.
3. Upon completion of the review the Director of Planning & Regulation provides a report to Council on the findings of the review.

The Motion was **Carried**

FOR VOTE - Unanimous

9 [PR-CM] Planning Reform Unit - Draft Pottsville Locality Plan and Development Control Plan

237

**Cr B Longland
Cr D Holdom**

RESOLVED that:

1. The report on Planning Reform Unit - Draft Pottsville Locality Plan and Development Control Plan be received and noted.
2. The amended draft Pottsville Locality Plan and Development Control Plan, incorporating the amendments raised in this report, be publicly exhibited for a minimum period of 30 days, during which a community workshop is to be

locally held, in accordance with section 74E of the *Environmental Planning Assessment Act 1979*.

3. Following public exhibition a further report addressing all public submissions is to be submitted to Council.

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AMENDMENT

**Cr K Milne
Cr J van Lieshout**

PROPOSED that:

1. The report on Planning Reform Unit - Draft Pottsville Locality Plan and Development Control Plan be received and noted.
2. The amended draft Pottsville Locality Plan and Development Control Plan, incorporating the amendments raised in this report, be publicly exhibited for a minimum period of 60 days, during which a community workshop is to be locally held, in accordance with section 74E of the *Environmental Planning Assessment Act 1979*.
3. Following public exhibition a further report addressing all public submissions is to be submitted to Council.

The Amendment was **Lost**

FOR VOTE - Cr K Milne, Cr J van Lieshout

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

The Motion was **Carried**

FOR VOTE - Unanimous

- 10 [PR-CM] Development Application DA08/1161 for a Town House Development Comprising Eight (8) Attached Dwellings at Lot 1 and 2 DP 568733; Lot 9 DP 33501, Pacific Highway, Banora Point**

DECLARATION OF INTEREST

Cr D Holdom declared a Non-Pecuniary Interest in this item, left the Chamber at 5.18PM and took no part in the discussion or voting. The nature of the interest is in relation to personal matters.

Cr W Polglase declared a Non-Pecuniary Interest in this item, left the Chamber at 5.18PM and took no part in the discussion or voting. The nature of the interest is in relation to personal matters.

239

Cr B Longland
Cr J van Lieshout

RESOLVED that Development Application DA08/1161 for a town house development comprising eight (8) attached dwellings at Lots 1 and 2 DP 568733, Lot 9 DP 33501 Pacific Highway, Banora Point be refused for the following reasons:-

1. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated compliance with the development standard as being unreasonable or unnecessary in accordance with State Environmental Planning Policy No. 1 – Development Standards.
2. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated due consideration or compliance with the 2(a) zone objectives within Clause 11 of the Tweed Local Environmental Plan 2000, as the proposed development does not provide for and maintain a low density residential environment with a predominantly detached housing character and amenity.
3. Pursuant to Section 79C(1)(a)(i) the development proposal is not consistent with Clause 51A of the Tweed Local Environmental Plan 2000, as the proposed density of the development is greater than one dwelling per 450m² of site area.
4. Pursuant to Section 79C(1)(c) the development site is not considered suitable for the development as proposed.
5. Pursuant to Section 79C(1)(e) the proposed development, is not within the public interest.
6. Specialist reporting has not been satisfactorily undertaken to determine the nature and extent of the contamination of the land because of the existing underground petroleum tanks. This information is required to enable Council to determine whether the land is suitable for the proposed use.

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr D Holdom, Cr W Polglase

Cr W Polglase has returned from temporary absence at 05:21 PM

Cr D Holdom has returned from temporary absence at 05:21 PM

- 11 **[PR-CM] Development Application DA08/1170 for a Two (2) Lot Subdivision at Lot 1 DP 1073137, No. 19 and 43 Turners Road, Wardrop Valley**

240

Cr D Holdom

Cr K Milne

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

1. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated compliance with the development standard as being unreasonable or unnecessary in accordance with State Environmental Planning Policy No. 1 – Development Standards
2. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated due consideration or compliance with State Environmental Planning Policy (Rural Lands) 2008 as the proposal will result in:
 - development being incompatible with surrounding agricultural uses,
 - potential to create land use conflicts
 - the proposed subdivision not supporting or enhancing the agricultural production of the site
3. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated due consideration or compliance with the 1(a) zone objectives within Clause 11 of the Tweed Local Environmental Plan 2000, as the proposed development does not:
 - protect the rural character and amenity;
 - prevent the unnecessary fragmentation or development of land which may be needed for long-term urban expansion.
4. Pursuant to Section 79C(1)(a)(i) the development proposal in seeking a subdivision for a residential purpose is not consistent with Clause 20(2)(a) of the Tweed Local Environmental Plan 2000, as the proposed Lots are below the minimum requirement of 40 hectares.
5. Pursuant to Section 79C(1)(c) the development site is not considered suitable for the development as proposed.
6. Pursuant to Section 79C(1)(e) the proposed development will result in prohibited development with dwelling houses located on undersized allotments that do not enjoy dwelling entitlements.
7. Pursuant to Section 79C(1)(e) the proposed development, is not within the public interest as the development would create two undersized lots in the 1(a) Rural zone.

The Motion was **Lost**

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

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

241

Cr P Youngblutt
Cr J van Lieshout

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

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 2537-2 Revision A prepared by Chapman Surveys Pty Ltd and dated 7/8/08, except where varied by the conditions of this consent.
[GEN0005]
2. The subdivision is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications.
[GEN0125]
3. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.
[GEN0135]
4. The development shall not result in damage to or loss of any threatened or endangered flora.
[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

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

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

[PCC0275]

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

[PCC0285]

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

[PCC0865]

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

(a) copies of compliance certificates relied upon

- (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:

- earthworks
- roadworks, including

(a) The upgrade of Turners Road from its intersection with Smarts Road, to the existing driveway access servicing proposed Lot 2, to provide a 6m formation with full width gravel pavement, minimum 150mm roadbase depth in accordance with Council's DCP – Section A5 – Subdivision Manual.

(b) Required road drainage and batters.

- access, including

(c) Provision of a vehicular access providing a minimum 150mm depth roadbase from Turners Road to the property boundary of both proposed Lot 1 & 2.

- stormwater drainage
- sedimentation and erosion management plans
- location of all service conduits (water, sewer, Country Energy and Telstra)

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

[PCC0985]

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

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

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

[PCC1155]

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

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0225]

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

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

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

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

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

C4: Accredited Certifier – Stormwater management facilities construction compliance

C6: Accredited Certifier – Subdivision road and drainage construction compliance

- (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment,
- (iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and

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

[PCW0815]

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

[PCW0835]

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

[PCW0985]

DURING CONSTRUCTION

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

[DUR0005]

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

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

17. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

A. Short Term Period - 4 weeks.

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

B. Long term period - the duration.

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

[DUR0215]

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

[DUR0585]

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

[DUR0815]

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

[DUR0985]

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

[DUR0995]

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

[DUR1795]

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

[DUR1845]

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

[DUR1875]

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

[DUR2015]

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

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

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

[DUR2375]

USE

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

[USENS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

[PSC0005]

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

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

[PSC0215]

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

[PSC0725]

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

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

- (a) the constructed Turners Road pavement and associated drainage and batters are contained within the nominated road reserve.

- (b) the plans accurately reflect the Work as Executed.

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

[PSC0735]

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

[PSC0825]

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

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

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

owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

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

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

[PSC0835]

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

[PSC0845]

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

[PSC0855]

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

[PSC0865]

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

The following information must accompany an application:

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

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

[PSC0885]

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

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

Note:

1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 – Subdivisions Manual and Councils Development Design and Construction Specifications.
 2. The fee associated with Council's inspections is subject to Council's Fees and Charges, current at the time of payment.
[PSC0915]
39. The six (6) months Defects Liability Period commences upon the registration of the Plan of Subdivision.
[PSC0925]
40. Prior to the issue of a Subdivision Certificate a properly dimensioned plan shall be submitted to Council for approval, showing the position of fences, structures (including the existing dwelling on proposed Lot 1) and the road formation, in relation to the proposed boundaries along Turners Road.
1. Any encroaching boundary fence is to be removed/relocated to the correct alignment.
 2. Any encroaching part of the existing dwelling on proposed Lot 1 encroaching into the Turners Road road reserve shall be removed.
[PSC0945]
41. Prior to the issue of a subdivision certificate the applicant is required to lodge an application to operate an onsite sewerage management system for each individual dwelling under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issues with an approval.
[PSCNS01]
42. Where the road formation of Turners Road encroaches into private property, the submitted Subdivision Certificate must incorporate appropriate road widening within the subject allotment (generally taken to the existing fence line) to encompass such encroachments.
Any such road widening shall be dedicated to Council, at no cost to Council.
[PSCNS02]

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

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

The Motion was **Carried**

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

NOTE: A RESCISSION MOTION HAS BEEN RECEIVED IN RELATION TO ITEM 11

12 [PR-CM] Development Application DA08/0708 for a Disability Ramp and Stairs to the Murwillumbah Historical Museum at Lot 1 Section 30 DP 758739, No. 2 Queensland Road, Murwillumbah

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**Cr B Longland
Cr D Holdom**

RESOLVED that that Development Application DA08/0708 for a disability ramp and stairs to the Murwillumbah Historical Museum at Lot 1 Section 30 DP 758739, No. 2 Queensland Road, Murwillumbah be approved

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan No's. DA1B Revision B (prepared by Paul Berkemeier and dated 21 October, 2008) as amended in red and DA2C(ii) Revision D (prepared by Paul Berkemeier and dated 3 June, 2009) as amended in red, except where varied by the conditions of this consent.
[GEN0005]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0115]
3. Photoarchiving of the construction process, including before and after the proposed development is to be undertaken.
4. The disabled ramp must comply with AS1428.1, 2001. In particular, the ramp must be provided with a kerb or kerb rail on both sides and the handrail must return 180 degrees at the ends. Full details of the ramp, including details of tactile indicators must be provided with the application for construction certificate.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. A detailed plan of landscaping is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate. This plan is to incorporate the existing raised garden beds on the northern side of the proposed stairs. The proposed vegetation is to provide suitable screening of the stairs from the Queensland Road frontage.
6. Prior to issue of construction certificate, detailed plans are to be submitted to the satisfaction of Council's General Manager or his delegate incorporating the following:
 - planter box at RL11.05 to allow for overhanging vegetation to screen the proposed rendered vertical wall between the upper landing and the landing at RL8.65.
 - replacement of the existing concrete landing with a timber deck and

replacement of the proposed tubular steel handrail to the ramp and stairs with a hardwood timber rail in accordance with the recommendations of the Heritage Impact Statement (prepared by David Scobie Architects and dated 16 September, 2008).

[PCC0585]

PRIOR TO COMMENCEMENT OF WORK

7. The erection of a building in accordance with a development consent must not be commenced until:

- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
- (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

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

[PCW0225]

9. **Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003**, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building

work and a telephone number on which that person may be contacted outside working hours, and

- (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

DURING CONSTRUCTION

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

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

11. All 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. 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]

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

[DUR0415]

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

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

[DUR1005]

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

[DUR1045]

16. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.

[DUR1685]

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
18. 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

The Motion was **Carried**

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

- 13 [PR-CM] Development Application DA08/1216 for a Dwelling & Demolition of Existing Dwelling at Lot 2 DP 501165 No. 10a Boomerang Street, Kingscliff

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Cr D Holdom
Cr B Longland

RESOLVED that Development Application DA08/1216 for a dwelling & demolition of existing dwelling at Lot 2 DP 501165, No. 10a Boomerang Street Kingscliff be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects as amended and Plan Nos 037-01 issue H, 037-02 issue K, 037-03 issue H, 037-04 issue K, 037-06 issue M, 037-12 issue G, 037-30 issue J, 037-20 issue L, 037-21 issue L, prepared by Gary Grieve Design and dated July 08, except where varied by the conditions of this consent.
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
3. Landscaping is to be provided and maintained in accordance with the approved plans and any additional landscaping on the site is to be limited to a maximum growth height of 24.65m AHD so as facilitate the view sharing considerations accommodated by the development.

[GEN0005]

[GEN0115]

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

4. 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]

5. A construction certificate application for works that involve any of the following:-

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

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

[PCC1145]

6. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

PRIOR TO COMMENCEMENT OF WORK

7. The erection of a building in accordance with a development consent must not be commenced until:
- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
-

- (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]
- 8. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]
- 9. 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]
- 10. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:-
 - (a) a standard flushing toilet connected to a public sewer, or
 - (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

11. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

12. Prior to commencement of work including demolition 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]

13. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. Note All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the Principal Certifying Authority prior to commencement of building works.

[PCW1005]

DURING CONSTRUCTION

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

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

[DUR0245]

-
16. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).
[DUR0375]
17. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.
[DUR0395]
18. 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]
19. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.
[DUR0415]
20. The finished floor level of the building should finish not less than 225mm above finished ground level.
[DUR0445]
21. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures", to the relevant requirements of the WorkCover NSW, Occupational Health and Safety Regulation 2001 and the approved demolition work plan.
[DUR0645]
22. All cut or fill on the property 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, and Development Control Plan.
Please note timber retaining walls are not permitted.
[DUR0835]
23. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.
[DUR0905]
24. All work associated with this approval is to be carried out so as not to impact on neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -
- Noise, water or air pollution
 - Minimise impact from dust during filling operations and also from construction vehicles
 - No material is removed from the site by wind

25. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- [DUR1875]
26. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.
- [DUR1945]
27. 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.
- [DUR2185]
28. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
 - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - (c) external drainage prior to backfilling.
 - (d) completion of work and prior to occupation of the building.
- [DUR2485]
29. Plumbing
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
 - (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
- [DUR2495]
30. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
- [DUR2515]
31. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.
- [DUR2545]
32. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- * 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50°C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.
-

[DUR2555]

33. The structure is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not effect or be affected by the sewer main.

[DUR2645]

34. A Sewer manhole is present on this site. This manhole is to be uncovered and if necessary, application shall be made to Council's Engineering & Operations Division for the raising of the manhole.

[DUR2655]

35. No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main.

[DUR2705]

36. During construction the Principal Certifying Authority is to be provided with a Registered Surveyors' floor level certificate at each floor platform stage and when the roof framework is in place, to confirm that the height of the building is proceeding in accordance with the approved plans.

37. All externally mounted equipment such solar panels, other than antennas are not to exceed the maximum allowed construction height of 24.555m AHD.

[DURNS02]

38. A new water meter service is to be provided to the property at the Boomerang Street frontage and arrangement made with Council's Water Unit for the removal of the existing service located on Rob Roy Crescent.

[DURNS03]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

39. 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]

40. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

The street number is to be on a white reflective background professional painted in black numbers 100mm high.

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0265]

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

[POC0435]

42. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

USE

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

[USE0175]

44. The building is to be used for single dwelling purposes only.

[USE0505]

The Motion was **Carried**.

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

- 14 [PR-CM] Development Application DA09/0187.02 for an Amendment to Development Consent DA09/0187 for Replacing an Existing Old Structure with General Work Shed/Garage- Boat Storage Structure & SEPP 1 Objection to Building Setback - Correction of Setback Di

244

Cr D Holdom
Cr P Youngblutt

RESOLVED that Development Application DA09/0187.02 for an amendment to development consent DA09/0187 for replacing an existing old structure with general work shed/garage- boat storage structure & SEPP 1 objection to building setback – correction of setback dimensions at Lot 14 DP 729137, No. 797 Clothiers Creek Road Clothiers Creek be approved and the consent be amended as follows:

1. Condition No. 1 is to be deleted and replace with Condition No. 1A which reads as follows:

1A. *The development shall be completed in accordance with the plans approved by Council, amended plans and the Statement of Environmental Effects, except where varied by conditions of this consent.*
[GEN0015]

2. The following new Condition No. 2.1 is to be added under the GENERAL heading:

2.1 *Landscape screening along the roadside frontage of the proposed work shed/garage is required to the satisfaction of the General Manager or his delegate.*

[GEN001]

The Motion was **Carried**

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

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

245

Cr B Longland
Cr K Milne

PROPOSED that Development Application DA05/0824.07 for a Section 96 amendment to DA05/0824 for multi dwelling housing comprising four (4) units at Lot 4 Section 2 DP 7309, No. 26 Seaview Street, Kingscliff be refused.

246

AMENDMENT

Cr B Longland
Cr J van Lieshout

RESOLVED this item be deferred to undertake further consultation.

The Amendment was **Carried**

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

The Amendment on becoming the Motion was **Carried** - (Minute No 246 refers)

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

AGAINST VOTE - Cr D Holdom

- 16 [PR-CM] Development Application DA08/1118.02 for an Amendment to Development Consent DA08/1118 for a Fruit and Vegetable Roadside Stall and Signage at Lot 11 DP 835413, No. 2 Boulder Close, Byangum

247

Cr P Youngblutt
Cr J van Lieshout

RESOLVED that Development Application DA08/1118.02 for an amendment to Development Consent DA08/1118 for a fruit and vegetable roadside stall and signage at Lot 11 DP 835413, No. 2 Boulder Close, Byangum, be approved and the consent be amended as follows:-

1. Condition No. 1 is to be deleted and replaced with Condition No. 1A which reads as follows:

1A. The development shall be completed in accordance with the Statement of Environmental Effects and following plans:

- Plan Nos 2209D prepared by P Hurcombe and dated 06/08/09,
- Plan Nos 1 prepared by Avraham Mishtler and dated 11 August 2009,
- *Stall plan. Unauthored and dated 3/3/09 and*
- *Site plan and signage plan. Unauthored and dated 3/3/09,*

(as amended in Red), except where varied by the conditions of this consent.

[GEN0005]

2. The insertion of the USE heading after Condition No. 29

USE

3. Insert Condition No. 27.1 which reads as follows:

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

[POCNS01]

PROCEDURAL MOTION

248

Cr J van Lieshout
Cr D Holdom

RESOLVED that the Motion be put.

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

The Motion was Carried

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

17 [PR-CM] MP08_0034 - Submission to the Department of Planning regarding Environmental Assessment (EA) for a Residential Subdivision at Lots 2 and 3 DP 244652 Urliup, Bilambil and Hogans Road, Bilambil Village

249

Cr K Milne
Cr B Longland

RESOLVED that Standing Orders be suspended to discuss Item 17 of the Council Agenda at 6.03PM.

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

Cr P Youngblutt left the meeting at 06:03 PM

Cr P Youngblutt has returned from temporary absence at 06:06 PM

250

Cr D Holdom
Cr P Youngblutt

RESOLVED that Standing Orders be resumed.

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

251

Cr K Milne
Cr B Longland

RESOLVED that Council endorses the preparation of a submission to the Department of Planning regarding MP08_0034 Environmental Assessment (EA) for

a residential subdivision at Lots 2 and 3 DP 244652 Uriup, Bilambil and Hogans Road, Bilambil Village based on the matters identified in the report and as follows:

1. Reduction in the number of lots to a maximum of 10 lots, to be consistent with the current and existing lot sizes and character of the village, which is especially significant due to the impact on the important historic aspects of the village, particularly in regard to the adjacent Hall, and the charming aesthetic, rural and World Heritage values of the village and its tourist potential being prominent on these scenic routes.
2. A reduction in number of lots to that required, if less than 10, that will have no further impact to Bilambil Creek, due to the poor state of the Bilambil Creek system, and that will enhance the waterways system to the maximum potential.
3. The 50 metre riparian buffer to be strictly used for environmental purposes and not for any road, footpath, bike track or other purposes.
4. No dogs or cats allowed due to the platypus and other wildlife utilising the riparian zone.
5. A dense vegetation buffer around the perimeter of the development and Hall as a preference to the walls proposed and due to the potential for graffiti.
6. Footpaths and driveways to be included for the whole development and extend to the existing general store.
7. Adequate road width to accommodate parking on both sides of the road.
8. No entry statement allowed.
9. The endangered Macadamia tree to be fenced off to ensure the greatest opportunity for new germination and species recovery.
10. Consideration on the impact of traffic in relation to the Kennedy Drive Catchment.
11. Consideration of composting toilets.
12. Consideration of the full range of services and facilities traditionally associated with a rural village. As outlined in the Council report the general store is not appropriate but there may be other needs, though the placement of children's activities is not desirable due to the overhead powerlines.
13. As a precautionary measure long term occupation of the site is not desirable due to a precautionary approach that should be adopted in relation to the close proximity of the powerlines.
14. Further consideration by the developer of flooding and climate change impacts, especially in relation to the extremely high rainfall in this area and in relation to affect on neighbours and village.

15. Strict building design guidelines to complement the existing village character.
16. Desire for further sustainability and energy efficiency measures to be incorporated, and concerns, especially in relation to the proposal for air-conditioning, double glazing and orientation of the buildings. Preference for solar and especially solar hot water systems to be installed.
17. Further consideration of issues outlined in the community submissions.
18. Request for landscaping plans to be submitted for public comment, as this is a significant ecological location and local expert knowledge is important in this matter.

The Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr B Longland, Cr K Milne

AGAINST VOTE - Cr D Holdom, Cr W Polglase, Cr J van Lieshout

- 18 **[PR-CM] Environmental Assessment Major Project 07_0179, Mixed Use Development - Lots 184-187 and 191-194 DP 259164 and Lots 20-23 DP 31208, Tweed Coast Road and Hastings Road, Cabarita**

252

**Cr B Longland
Cr J van Lieshout**

RESOLVED that the matters discussed in this report, in respect of the preferred project plan for Major Project 07_0179, be endorsed by Council and forwarded to the Department of Planning as a submission and that the submission should convey Council's clear intention to preserve the three storey height limit in this locality.

253

AMENDMENT 1

**Cr K Milne
Cr B Longland**

PROPOSED that the matters discussed in this report, in respect of the preferred project plan for Major Project 07_0179, be endorsed by Council and forwarded to the Department of Planning as a submission with the inclusion of the following:-

1. Council has a strong desire to maintain the full continuous rear laneway access as described in the Tweed LEP, to achieve the aims of business useability and streetscape aesthetics.

2. Inappropriate over sizing of the supermarket for this small village, especially being located in the centre of the main business hub, with potential traffic and parking problems impacting on useability of the village and other businesses, and particularly as street parking spaces are foreseen to be inappropriately utilised, despite the provision of underground car parking.
3. Concern with predominance of the supermarket and residential components of the development and thereby the lack of opportunity for a full diversity of business such as office space or community orientated services.
4. Concerns with provision of internal public open space off the streetscape and the lack of utilisation of scenic vistas for public viewing.
5. Desire for further sustainability and energy efficiency measures and concerns especially in relation to the energy required for the transportation of goods to the first floor location of the supermarket on an ongoing basis.
6. Concerns with the extensive excavations for car parking due to the problems recently encountered with groundwater.

The Amendment 1 was **Lost**

FOR VOTE - Cr B Longland, Cr K Milne

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

AMENDMENT 2

Cr K Milne

Cr B Longland

PROPOSED that the matters discussed in this report, in respect of the preferred project plan for Major Project 07_0179, be endorsed by Council and forwarded to the Department of Planning as a submission with the inclusion of concerns about inappropriate over sizing of the supermarket for this small village, especially being located in the centre of the main business hub, with potential traffic and parking problems impacting on useability of the village and other businesses, and particularly as street parking spaces are foreseen to be inappropriately utilised, despite the provision of underground car parking.

The Amendment 2 was **Lost**

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

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

The Motion was **Carried** (refer Minute No 252).

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

AGAINST VOTE - Cr K Skinner, Cr K Milne, Cr W Polglase

ADJOURNMENT OF MEETING

Adjournment for dinner at 6.35pm.

RESUMPTION OF MEETING

The Meeting resumed at 7.35pm.

Cr J van Lieshout was not present at the commencement of the meeting.

REPORTS FROM THE DIRECTOR COMMUNITY & NATURAL RESOURCES

19 [CNR-CM] Environmental Trust USP 08-11 - Blacks Drain Acid Sulfate Soil Remediation

254

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council:-

1. Approves the expenditure of grant funds on the property of the Dickinson family, namely Lot 3 DP 1039120 and Lot 34 DP1128192 for the purpose of drain modification to reduce acid sulfate soil runoff.
2. Awards the contract to undertake the works to WJ, D, LJ and CS Dickinson under Section 55(3) of the Local Government Act as the property owner will provide "in kind" works in form of all machinery hire.

The Motion was **Carried**

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

Cr J van Lieshout has returned from temporary absence at 07:39 PM

20 [CNR-CM] Offer of Assistance for Implementation of the Tweed Coast Estuaries and Tweed Coastline Management Plans 2009/10

255

**Cr D Holdom
Cr B Longland**

RESOLVED that Council:-

1. Accepts the financial assistance of up to \$248,500 from the Department of Environment, Climate Change and Water's Estuary and Coastal Management Programs on a dollar for dollar basis.

2. Votes the expenditure for implementation of the Tweed Coastline Management Program (\$198,500) and Tweed Coast Estuaries Management Program (\$50,000).

The Motion was **Carried**

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

21 [CNR-CM] Treasures of the Tweed - Commercial Road Levee Bank Mural Project

256

Cr B Longland
Cr K Milne

RESOLVED that Council undertakes to enter into an agreement with Job Services Australia Provider, NORTEC Employment and Training to facilitate the completion of the Treasures of the Tweed mural project.

The Motion was **Carried**

FOR VOTE - Unanimous

22 [CNR-CM] Non-recurrent funds for Episodic Case Management and Brokerage

257

Cr D Holdom
Cr P Youngblutt

RESOLVED that:-

1. Council makes an application to NSW Community Options Project Inc. for three (3) funding units to the value of \$67,500.
2. Upon acceptance of the application for funding units, contracts be signed and returned to NSW Community Options Projects Inc. for execution.
3. Successful application for funding units be voted at the subsequent budget reviews.

The Motion was **Carried**

FOR VOTE - Unanimous

23 [CNR-CM] Recurrent funding for the provision of allied health – podiatry services**258****Cr D Holdom
Cr K Milne****RESOLVED** that Council:

1. Accepts the funding variation for recurrent funding to include Allied Health – Podiatry services.
2. Votes the expenditure of \$22,495 for the 2009/10 financial year.
3. Agrees to affix the Common Seal of Council to the Acceptance of Funding Variation documents and returns the same to Department of Ageing Disability & Home Care (DADHC) for execution.

The Motion was **Carried*****FOR VOTE - Unanimous*****24 [CNR-CM] 2009/2010 Bushfire Mitigation Program - Funding Agreement****259****Cr D Holdom
Cr P Youngblutt****RESOLVED** that:-

1. Council accepts the financial assistance from the Commonwealth Government of up to \$26,666.66 for creation of new bushfire trails, refurbishment of existing bushfire trails, installation of fire trail gates, signage, fuel hazard reduction and other works on fire trails at Mt. Terragon.
2. All documentation be completed under the Common Seal of Council.

The Motion was **Carried*****FOR VOTE - Unanimous*****25 [CNR-CM] Request by Tweed Heads Historical Society to commission architectural model of Tweed River Regional Museum, Flagstaff Hill****260****Cr D Holdom**

Cr B Longland

PROPOSED that Council approves the procurement of an architectural model for the current Flagstaff Hill Museum concept.

261

AMENDMENT**Cr J van Lieshout**
Cr K Skinner

RESOLVED that this item be deferred to hold a Workshop to discuss the two museums and the Flagstaff Hill Museum.

The Amendment was **Carried**

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

The Amendment on becoming the Motion was **Carried** - (Minute No 261 refers)

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

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

262

Cr K Milne
Cr D Holdom

RESOLVED that Council:-

1. With reference to the request from Kingscliff RSL Sub Branch, provides the Kingscliff Amenities Hall for \$43 being 50% of the full community hire fee of \$86 for the "One Cent Auction" on 31 October 2009, 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 Northern Rivers Bottle & Collectors Club, declines the request for a reduction of fees for hire of Murwillumbah Civic Centre Auditorium for the 19th Antiques & Collectables Exhibition & Trading Fair on 1 August 2009.
 3. With reference to the request from NSW Department of Education & Training, provides the Murwillumbah Civic Centre Auditorium free of charge for the Public Education Awards Ceremony on 10 September 2009, 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 DIRECTOR ENGINEERING & OPERATIONS

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

263

Cr P Youngblutt
Cr J van Lieshout

RESOLVED that Council does not object to the closure and purchase by the applicant of the section of Crown Road Reserve south and west of Lot 2 in DP 740293 at Sleepy Hollow.

The Motion was **Carried**

FOR VOTE - Unanimous

28 [EO-CM] Licence Agreement - Boyds Bay Bridge - Tweed River Boat Hire

264

Cr P Youngblutt
Cr K Milne

RESOLVED that:-

1. Council approves entering into a licence agreement between the owner operator of Tweed River Boat Hire for a period of five (5) years from 4 December 2009 for the area of unused road reserve adjacent to the southern approaches to the Boyds Bay Bridge at Tweed Heads at a rental to be determined by valuation;
2. All documents be executed under the Common Seal of Council.

The Motion was **Carried**

FOR VOTE - Unanimous

29 [EO-CM] Release of Easement to Drain Water 2 metres wide - Lot 2 in DP 511812 - 14 Moss Street, Kingscliff

265

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:-

1. Council approves the extinguishment of Easement to Drain Water 2 wide within Lot 2 in DP 511812, and
2. All documentation is executed under the Common Seal of Council.

The Motion was **Carried**

FOR VOTE - Unanimous

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

266

**Cr D Holdom
Cr P Youngblutt**

PROPOSED that:-

1. Council approves the compulsory acquisition without agreement of Lot 1 in DP 1141926 for drainage purposes under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Local Government Act, 1993 and the making of the necessary application to the Minister and/or Governor; and
2. All necessary documentation be executed under the Common Seal of Council.

267

AMENDMENT

**Cr W Polglase
Cr K Skinner**

RESOLVED that this item be deferred to be considered at the next Council meeting on 20 October 2009, at the request of the owners of Lot 1 in DP 1141926 at Hastings Point.

The Amendment was **Carried**

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

AGAINST VOTE - Cr D Holdom, Cr K Milne

The Amendment on becoming the Motion was **Carried** - (Minute No 267 refers)

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

AGAINST VOTE - Cr D Holdom, Cr K Milne

31 [EO-CM] Amendment to Section 94 Plan No. 5 - Local Open Space

268

Cr P Youngblutt

Cr K Skinner

RESOLVED that:-

1. Council adopts Draft S94 Plan No 5 – Local Open Space Version 6.1.1 as a basis for exhibition and community discussion/consultation.
2. Draft plan Version 6.1.1 be exhibited as required by the Environmental Planning and Assessment Regulations to repeal and replace Version 6.0.1.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

32 [EO-CM] Amendment to Section 94 Plan No. 16 - Emergency Facilities (Surf Lifesaving)

269

Cr D Holdom

Cr P Youngblutt

RESOLVED that :-

1. Council adopts Draft S94 Plan No 16 – Emergency Facilities (Surf Lifesaving) (Version 6) as a basis for exhibition and community discussion/consultation.
2. Draft plan Version 6 be exhibited as required by the Environmental Planning and Assessment Regulations to repeal and replace Version 2.

The Motion was **Carried**

FOR VOTE - Unanimous**33 [EO-CM] Adoption of Amended Section 94 Plan No 10 - Cobaki Lakes Open Space and Community Facilities (Version 3)**

270

**Cr D Holdom
Cr P Youngblutt****RESOLVED** that Council:-

1. Approves Draft Section 94 Plan No 10 – Cobaki Lakes Open Space and Community Facilities (Version 3), with minor amendments relating to the application of rates to unit and tourist development as described in the report, to repeal and replace the existing version in accordance with Clause 31 of the Environmental Planning & Assessment Regulations 2000;
2. Gives Public Notice in the Tweed Link of Council's decision specifying that the amended Version 3 of the Plan (CP 10) comes into effect on the date of the notice.

The Motion was **Carried****FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr B Longland, Cr W Polglase, Cr J van Lieshout
AGAINST VOTE - Cr K Milne****34 [EO-CM] EC2007-032 Supply and Delivery of Bulk Fuels: Variation to Schedule A - Supplier Costs**

271

**Cr P Youngblutt
Cr J van Lieshout****RESOLVED** that:-

1. EC2007-032 Supply and Delivery of Bulk Fuels: Variation to Schedule A - Supplier Costs be received and noted.
 2. The ATTACHMENT A be treated as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness, by giving their
-

competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

The Motion was **Carried**

FOR VOTE - Unanimous

35 [EO-CM] EQ2009-049 Supply of Selected Materials: Form Ply

272

**Cr D Holdom
Cr K Skinner**

RESOLVED that:-

1. The contract for the Supply of Form Ply EC2009-049 for the period from the date of determination by Council until 30 June 2010 be awarded to J H Williams.
2. ATTACHMENTS A is CONFIDENTIAL in accordance with Section 10A(2)(c) or Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

The Motion was **Carried**

FOR VOTE - Unanimous

36 [EO-CM] EC2009-092 Manufacture, Supply and Delivery of Gross Pollutant Traps to Jack Evans Boat Harbour, Tweed Heads

273

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:-

1. The tender from Cemex Australia Pty Ltd Trading As Humes be accepted to the value of \$214,005 inclusive of GST.

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

The Motion was **Carried**

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

37 [EO-CM] Parks Naming - River Street, Murwillumbah

274

Cr D Holdom
Cr P Youngblutt

RESOLVED that:-

1. Council names the park area located at 67 to 71 River Street Murwillumbah 'Knight Family Park' and erect signs.
2. Council advertises the proposal to name the park area located at 97 to 103 River Street 'Holston Park' in the Tweed Link for twenty eight (28) days inviting submissions from the public.
3. ATTACHMENTS A and B 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.

The Motion was **Carried**

FOR VOTE - Unanimous

38 [EO-CM] Regional Road Block Grant 2009/2010

275

**Cr D Holdom
Cr B Longland****RESOLVED** that Council:-

1. Accepts the Regional Road Block Grant for \$2,028,000 in accordance with information provided in the Roads and Traffic Authority (RTA's) Local Government Relations website and authorises the General Manager to sign the documents.
2. Votes the expenditure.

The Motion was **Carried*****FOR VOTE - Unanimous*****39 [EO-CM] Land Slip - Alice Street, Murwillumbah**

276

**Cr D Holdom
Cr B Longland****RESOLVED** that Council contributes up to \$10,000 for the raising of the retaining wall partly on Alice Street and partly on Lot A DP 392514.The Motion was **Carried*****FOR VOTE - Unanimous*****REPORTS FROM THE DIRECTOR TECHNOLOGY & CORPORATE SERVICES****40 [TCS-CM] Disability Access Advisory Committee**

277

**Cr K Milne
Cr B Longland****RESOLVED** that Council endorses the Terms of Reference and calls for Expressions of Interest for Membership of eight (8) Community Representatives to the Disability Access Advisory Committee.The Motion was **Carried**

FOR VOTE - Unanimous**41 [TCS-CM] Provision of Legal Services****278****Cr P Youngblutt
Cr K Skinner****RESOLVED** that Council in accordance with Tender AC2009-073:

1. Appoints the following six (6) legal service providers to a panel for Category 1 - Planning, Environmental and Local Government Law for a period of three (3) years, commencing from 15 September 2009:

HWL Ebsworth
Lindsay Taylor Lawyers
Maddocks
Marsdens Law Group
Sparke Helmore
Wilshire Webb Staunton & Beattie

2. Appoints the following four (4) legal service providers to a panel for Category 2 - Commercial / Property Law for a period of three (3) years, commencing from 15 September 2009:

HWL Ebsworth
Marsdens Law Group
Stacks – The Law Firm
Wilshire Webb Staunton & Beattie

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

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

42 [TCS-CM] 2009 Complaint Analysis Report

279

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council receives and notes the 2009 Complaints Analysis Report for the period 1 April 2009 to 30 June 2009.

The Motion was **Carried**

FOR VOTE - Unanimous

43 [TCS-CM] Monthly Investment Report for Period Ending 31 August 2009

280

**Cr B Longland
Cr P Youngblutt**

RESOLVED that in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at 31 August 2009 totalling \$132,395,395.74 be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

44 [SUB-CCDA] Minutes of the Community Cultural Development Advisory Committee Meeting held Thursday 18 June, 2009

281

**Cr B Longland
Cr P Youngblutt**

RESOLVED that the:-

1. Minutes of the Community Cultural Development Advisory Committee Meeting held Thursday 18 June 2009 be received and noted; and
2. Director's recommendations be adopted as follows
3. **Festivals & Donations Policy**

That the Committee's recommendation being:

"That Council includes two (2) community members of the Community Cultural Development Advisory Committee on a Festivals and Donations Policy panel for assessing the applications."

be amended to read:

"That Council approves the following process for the assessment of applications under the Festivals & Donations program:

- 1. Panel consisting the Manager Community & Cultural Services, Festivals & Events Liaison Officer and Senior Financial Officer review all applications and provide recommendations to Council's Executive Management Team.*
- 2. Council's Executive Management Team review recommendations and report to Council."*

The Motion was **Carried**

FOR VOTE - Unanimous

45 [SUB-AAC] Minutes of the Aboriginal Advisory Committee Meeting held Friday 7 August 2009

282

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that the:-

1. Minutes of the Aboriginal Advisory Committee Meeting held Friday 7 August 2009 be received and noted; and
2. Director's recommendations be adopted as follows

GB 1 Proposed Boyds Bay Marina Development – Tweed Heads

As per the Committee's recommendation being:

"That Council contacts the Department of Lands advising that the Tweed Aboriginal Community strongly object to the proposed development due to the negative impact on the waterways and Ukerebagh Island, as well as Heritage, Cultural and Native Title Rights and that the Committee is informed of the Environmental Impact Study & Cultural Heritage Assessment."

**GB 4 Department of Environment & Climate Change NSW –
Aboriginal Cultural Heritage Draft Community Consultation
Requirements for Proponents**

As per the Committee's recommendation being:

"That Council writes to the Department of Environment & Climate Change advising that

- 1) *The Aboriginal Community is concerned that there was unsatisfactory consultation with the Tweed Aboriginal Community and the lack of information sessions north of Port Macquarie was duly noted.*
- 2) *The refusal not to extend the deadline for submission/responses from the Community was unacceptable.*
- 3) *The Committee would like to invite a member of the Reform and Compliance Branch to attend a future meeting to receive the Communities submissions."*

The Motion was **Carried**

FOR VOTE - Unanimous

**46 [SUB-TRC] Minutes of the Tweed River Committee Meeting held
Wednesday 12 August 2009**

283

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that the:-

1. Minutes of the Tweed River Committee Meeting held Wednesday 12 August 2009 be received and noted; and
2. Director's recommendations be adopted as follows

2. Terms of Reference

Terms of Reference

As per the Committee's recommendation being:

"That Council adds the following item to the Tweed River Committee charter objectives:-

To incorporate consideration of sustainability and climate change adaptation and mitigation into the Tweed River Committee programs."

4. Seagrass Monitoring - Jack Evans Boat Harbour
Jack Evans Boat Harbour

That the Committee's recommendation being:

That Council relocates seagrass affected by stormwater upgrade at Jack Evans Boat Harbour rather than removing it, and consider future relocation and extension of stormwater pipes into the Tweed River.

be amended to read:

"That:-

- 1. Council officers bring forward a report on the feasibility of relocating seagrass in lieu of removal within the Jack Evans Boat Harbour redevelopment.*
- 2. Council consider future relocation and extension of stormwater pipes from Jack Evans Boat Harbour into the river."*

That the Committee's recommendation being:

"That Council develops a Management Plan for Jack Evans Boat Harbour that incorporates recognition and protection of aquatic and marine habitat values, and how these may be affected by long term use of the area."

be amended to read:

"That the Tweed River Committee gives consideration to the funding and preparation of a Management Plan for Jack Evans Boat Harbour that incorporates recognition and protection of aquatic and marine habitat values, and how these may be affected by long term use of the area."

7. Proposed Development at Bilambil Village

That the Committee's recommendation being:

"That a letter be forwarded to NSW Land & Property Management Authority and Planning NSW advising of the Cobaki/Terranora EHMP report card and the technical report and providing copies of the documents. Further, that Council makes a submission to NSW Land & Property Management Authority and Planning NSW with respect to the proposed subdivision at Bilambil Village, including a recommendation that the riparian zone in this area be managed for environmental purposes, and that rehabilitation be undertaken at the cost of the developer, and maintained for a period of five years."

be amended to read:

"That:-

- 1. A letter be forward to NSW Land & Property Management Authority and Planning NSW advising of the Cobaki//Terranora EHMP report card and the technical report and providing copies of the documents.*
- 2. Council officers consider in their future report to Council on the proposed subdivision at Bilambil Village, the recommendation of the Tweed River Committee that the riparian zone in this area be managed for environmental purposes, and that rehabilitation be undertaken and maintained, for a period of five years, at the cost of the developer."*

Correspondence In:

- 1. Department of Environment & Climate Change
Estuary Management; Coastal Management; Beaches; River-Foreshore; Government Grant - Water**

As per the Committee's recommendation being:

"That in view of the alarming reduction of funding from NSW State Government for funding of works associated with the Tweed River Committee's numerous plans that Council seriously considers the introduction of an environmental levy to supplement the funds already made available."

Agenda Items:

- 3. Draft Cobaki & Terranora Broadwater Catchment Plan
Estuary Management; Broadwaters**

As per the Committee's recommendation being:

"That the draft Cobaki & Terranora Broadwater Catchment Plan be placed on public exhibition for a period of not less than 60 days."

The Motion was **Carried**

FOR VOTE - Unanimous

47 [SUB-TCC] Minutes of the Tweed Coastal Committee Meeting held Wednesday 12 August 2009

284

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that the:-

1. Minutes of the Tweed Coastal Committee Meeting held Wednesday 12 August 2009 be received and noted; and
2. Director's recommendations be adopted as follows

3. NSW Coastal Conference

NSW Coastal Conference

As per Committee's recommendation being:

That Council considers attendance by the Tweed Coastal Committee Chairman at the 18th NSW Coastal Conference in November in Ballina.

4. Terms of Reference

Terms of Reference

As per Committee's recommendation being:

That Council adds the following objective to the Tweed Coastal Committee Terms of Reference:-

- *To incorporate consideration of sustainability and climate change adaptation and mitigation into the Tweed Coastal Committee programs.*

The Motion was **Carried**

FOR VOTE - Unanimous

48 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 27 August 2009

285

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that the:-

1. Minutes of the Local Traffic Committee Meeting held Thursday 27 August 2009 be received and noted; and
2. Director's recommendations be adopted as follows

A. FORMAL ITEMS SECTION

DELEGATIONS FOR REGULATORY DEVICES

A1 [LTC-LATE] Police Lane Murwillumbah

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 4363573; Police Lane; Murwillumbah Street; Traffic -
Committee; Safety; Parking - Zones; Handicapped/Disabled
Matters

As per the Committee's recommendation being:

*"That the 'No Stopping' zone on Murwillumbah Street west of Police
Lane be extended by 2m effectively reducing the 2P zone by 2m."*

The Motion was **Carried**

FOR VOTE - Unanimous

ORDERS OF THE DAY

49 [NOM-CM] Workshop with Tweed Valley Wildlife Carers

NOTICE OF MOTION - D Holdom:

286

**Cr D Holdom
Cr K Skinner**

RESOLVED that Tweed Shire Council conducts a workshop with Tweed Valley
Wildlife Carers

The Motion was **Carried**

FOR VOTE - Unanimous

**50 [NOM-Cr K Milne] World Rally Car Championships/Conservation Based
Tourism**

NOTICE OF MOTION:

287

Cr K Milne

Cr B Longland

PROPOSED that Council:-

1. Makes a commitment to conservation based, eco tourism in the future that is focused on events and activities that are in harmony with the environment and the expectations of all sectors of the community.
2. Enshrines in the new Local Environment Plan a commitment to a focus on conservation based eco tourism.

288

AMENDMENT

**Cr J van Lieshout
Cr K Skinner**

RESOLVED that this Notice of Motion be deferred to the next meeting of Council to enable discussions with the Director Planning & Regulation in regards to conservation based eco tourism in the new Local Environmental Plan.

The Amendment was **Carried**

FOR VOTE - Unanimous

The Amendment on becoming the Motion was **Carried** - (Minute No 288 refers)

FOR VOTE - Unanimous

51 [NOM-Cr K Milne] Information on the new LEP

NOTICE OF MOTION:

289

**Cr K Milne
Cr B Longland**

RESOLVED that Council:-

1. Clearly outlines to the community via an information fact sheet posted on the Council website, and in the Tweed Link, all of the specific areas and aspects that the community can influence stage one and stage two of this LEP process.
 2. Advertises this information within the next two weeks to one month, in addition to the community consultation program already planned, to ensure the community has the maximum amount of time available to prepare for this process.
-

The Motion was **Lost**

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

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

52 [NOM-Cr K Milne] Ecologically Sustainable Principles (ESD)

NOTICE OF MOTION:

The motion lapsed due to the lack of a seconder.

53 [NOM-Cr K Milne] S94 Developer Contribution Funds

NOTICE OF MOTION:

290

Cr K Milne

Cr B Longland

PROPOSED that Council brings forward a report to review their Section 94 funds in light of the inadequacy of current community and environmental facilities to provide for Tweed's unique social fabric, expectations for open space and lack of environmental facilities.

291

AMENDMENT

Cr D Holdom

Cr J van Lieshout

RESOLVED that Council holds a Workshop on Section 94 Plans and funding.

The Amendment was **Carried**

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

AGAINST VOTE - Cr K Skinner

The Amendment on becoming the Motion was **Carried** - (Minute No 291 refers)

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

AGAINST VOTE - Cr K Skinner

54 [NOM-Cr K Milne] Council's Recognition and Promotion of Tweeds' Biodiversity

NOTICE OF MOTION:

The motion lapsed due to the lack of a seconder.

55 [NOM-Cr K Milne] Notification Procedure for Neighbours of Development Application

NOTICE OF MOTION:

The motion lapsed due to the lack of a seconder.

56 [NOM-Cr K Milne] Kings Forest and Cobaki Lakes

NOTICE OF MOTION:

The motion lapsed due to the lack of a seconder.

QUESTION TIME

Nil.

COMMITTEE OF THE WHOLE

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**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council resolves itself into a Confidential Committee of the Whole in accordance with Section 10A(2) of the Local Government Act 1993 (as amended) and that the press and public be excluded from the whole of the Committee Meeting, because, in the opinion of the Committee, publicity of the proceedings of the Committee would be prejudicial to the public interest, by reasons of the confidential nature of the business to be transacted

FOR VOTE - Unanimous

CONFIDENTIAL ITEMS FOR CONSIDERATION

The General Manager reported that the Confidential Committee of the Whole had excluded the press and public from the whole of the Committee Meeting because, in the opinion of the Committee, publicity of the proceedings of the Committee would be prejudicial to the public interest, by reason of the confidential nature of the business to be transacted, and made the following recommendations to Council:-

REPORTS THROUGH GENERAL MANAGER IN COMMITTEE**REPORTS FROM THE DIRECTOR PLANNING & REGULATION****1 [PR-CM] Delineation Issues at Tweed Heritage Caravan Park - Section 82****REASON FOR CONFIDENTIALITY:**

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

- (d) *commercial information of a confidential nature that would, if disclosed:*
 - (i) *prejudice the commercial position of the person who supplied it, or*
 - (ii) *confer a commercial advantage on a competitor of the council, or*
 - (iii) *reveal a trade secret*

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

C 48

That Council:

1. Supports the objection made by the Solicitors dated 2 March 2009 under the provisions of section 82 (3) (a) (ii) of the Local Government Act 1993 subject to the following modification being that at the time of an application to install a dwelling or associated structure or any modification to an existing structure(s) on a site within the Tweed Heritage Caravan Park, the delineation for that site must be carried out in accordance with the provisions of Cl.86 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 to the satisfaction of Council; and

2. Seeks the concurrence of the Director-General of the Department of Local Government accordingly.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR COMMUNITY & NATURAL RESOURCES**2 [CNR-CM] Eviron Road Proposed Quarry and Landfill - Acquisition of Adjacent Property****REASON FOR CONFIDENTIALITY:**

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

- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

C 49

That:-

1. Council seeks an independent valuation of No. 657 Eviron Road, Eviron.
2. Should the valuation be deemed reasonable that the General Manager commence negotiations with the owners of No. 657 Eviron Road, Eviron, to purchase the property.

The Motion was **Carried**

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

REPORTS FROM THE DIRECTOR ENGINEERING & OPERATIONS**3 [EO-CM] Acquisition of Land for Road Purposes - Palmvale Road, Palmvale****REASON FOR CONFIDENTIALITY:**

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

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

C 50

That:-

1. Council advises the landowner that their offer of compensation is rejected and that Council will acquire 1440m² from that part of Lot 2 in DP 610215 under the Land Acquisition (Just Terms Compensation) Act 1991 without the land owners consent; and
2. All documentation be executed under the Common Seal of Council.

The Motion was **Carried**

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

4 [EO-CM] Supply of Fill from Quarries**REASON FOR CONFIDENTIALITY:**

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

- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

C 51

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

The Motion was **Carried**

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

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Cr P Youngblutt
Cr K Skinner

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

FOR VOTE - Unanimous

There being no further business the Meeting terminated at 9.02pm



Minutes of Meeting Confirmed by Council

at Meeting held

Chairman

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