



**TWEED**  
SHIRE COUNCIL

**Mayor:** Cr K Skinner (Mayor)

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

# Minutes

## **Ordinary Council Meeting Tuesday 15 February 2011**

held at Murwillumbah Cultural & Civic Centre  
commencing at 3.30pm

### **COUNCIL'S CHARTER**

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

Tweed Shire Council has the following charter:

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

The Meeting commenced at 3.30pm.

## **IN ATTENDANCE**

Cr K Skinner (Mayor), Cr B Longland (Deputy Mayor), Cr D Holdom, Cr K Milne, Cr W Polglase (5.04pm), Cr J van Lieshout and Cr P Youngblutt.

Cr W Polglase advised the Acting General Manager that he will be attending the meeting late.

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

## **ABORIGINAL STATEMENT**

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

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

## **PRAYER**

The meeting opened with a Prayer by Council's Chaplain, Pastor Bob Spence:

*"Romans 12:6-8*

*We have different gifts, according to the grace given us.*

*If a man's gift is prophesying, let him use it in proportion to his faith.*

*If it is serving, let him serve;*

*if it is teaching, let him teach;*

*if it is encouraging, let him encourage;*

*if it is contributing to the needs of others, let him give generously;*

*if it is leadership, let him govern diligently;*

*if it is showing mercy, let him do it cheerfully.*

*Father, we ask that by your Holy Spirit you inspire each one here today with the qualities of Your good counsel.*

*Give insight that wise decisions may be made,*

*That there would be integrity to face the truth,*

*courage to make difficult choices and*

*compassion for the needs of others.*

*Cause each one here today to be a model of justice and honour for*

*our shire and let us never forget that our job is to serve both You and others.*

*May we receive into our arms the light of your revelation.*

Father we ask it in Jesus Name.

Amen”

## **MONSTER RAFFLE FOR QLD FLOOD APPEAL**

Businesses throughout the Tweed Shire and Council generously donated goods for a Monster Raffle for the Queensland flood appeal.

The Mayor, Cr K Skinner drew the following winners of the prize packs:

M Davidson – Family Pack

Chris Collins – Pamper Pack

Madelyn Muir – Weekender Pack

Rebecca Inglis – Workman Pack

## **CONFIRMATION OF MINUTES**

### **1 Minutes of the Ordinary and Confidential Council Meeting held Tuesday 18 January 2011**

41

**Cr D Holdom**

**Cr B Longland**

**RESOLVED** that the Minutes of the Ordinary and Confidential Council Meetings held Tuesday 18 January 2011 be adopted as a true and accurate record of proceedings of that meeting, including a clarification to Cr K Milne’s statement that:

Cr K Milne wishes to provide a clarification for Items 28, 29, 30 and 31 in accordance with the Code of Conduct and tabled the following statement:

*"I would like to make a statement to clarify my participation in relation to items 28, 29, 30 and 31 in tonight's business papers.*

*I have considered the relevant provisions of Council's Code of Conduct and I believe there are no impediments to me participating in debate and voting on these matters despite a defamation claim served against me on 20 December 2010, by Mr William Robert (Bob) Ell, the owner of Kings Forest and Cobaki developments.*

*I am of the view that these circumstances do not create a private interest for me in these items, either directly or by association.*

*As many will be aware, I have had an ongoing involvement in the larger policy issues of greenfield developments well before 20 December 2010, and I will continue to participate in discussion and voting on such matters from a public interest perspective, and - where an item involves consideration of a development application - on the merits of each application".*

The Motion was **Carried**

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

#### **APOLOGIES**

Nil.

#### **DISCLOSURE OF INTEREST**

Cr Milne wishes to make a statement of clarification in regard to no conflict of interest for items a5, 20, 53, 55 and 56.

*"I would like to declare that a defamation claim was served against me on 20 December 2010, by Mr William Robert (Bob) Ell of LEDA Holdings, the owner of the Kings Forest and Cobaki developments. I hope to allay any perceived conflict of interest concerns in matters, as they come before Council, relating to the Kings Forest and Cobaki developments.*

*I have sought advice on this matter and it is considered that no private gain could be provided to me if I am to vote on these developments. I will be voting only on the merits of each application."*

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

**42**

**Cr K Milne**

**PROPOSED** that Item 1 [GM-CM] Crown Land – Tweed Heads and Murwillumbah be moved from Confidential to Ordinary.

The Motion was **Lost**

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

## SCHEDULE OF OUTSTANDING RESOLUTIONS

### 2 Schedule of Outstanding Resolutions

The Schedule of Outstanding Resolutions report was received and noted.

## MAYORAL MINUTE (REPORT)

### 3 [MM] Mayoral Minute (Report) for the Period 5 January to 1 February 2011

43

**Cr K Skinner**

**RESOLVED** that the Mayoral Minute for the period 5 January to 1 February 2011 be received and noted.

It was noted that Cr K Skinner did not attend the Cabarita Community Meeting regarding South Precinct Proposal, Caravan Park and Sandalwood Estate held on 31 January 2011.

The Motion was **Carried**

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

44

**Cr K Milne**  
**Cr J van Lieshout**

**PROPOSED** that two Councillors be nominated to attend the Healthy Cities, 4<sup>th</sup> Making Cities Liveable Conference in Noosa from 28-29 July 2011.

The Motion was **Lost**

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

45

**Cr J van Lieshout**  
**Cr K Milne**

**PROPOSED** that the Cr K Milne be authorised to attend the Healthy Cities, 4<sup>th</sup> Making Cities Liveable Conference in Noosa from 28-29 July 2011.

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

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

**A NOTICE OF RESCISSION HAS BEEN RECEIVED ON THIS ITEM (MINUTE NO. 45 REFERS)**

**4 [MM] Mayoral Minute (Report) - Chinderah Service Centre**

**46**

**Cr K Skinner**

**RESOLVED** that arrangements be made for Council to meet with senior NSW Roads and Traffic Authority staff to discuss operational aspects of the existing centre and to raise concerns regarding the potential for a further centre on the northern side of the Chinderah Interchange.

The Motion was **Carried**

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

**5 [MM] Mayoral Minute (Report) - Chinderah Land Use**

**47**

**Cr K Skinner**

**RESOLVED** that a workshop be held with staff to review alternative land uses for parts of Chinderah.

The Motion was **Carried**

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

**a5 [MM] Mayoral Minute - Cobaki Subdivision Development Application (DA10/0800 and DA10/0801)**

**48**

**Cr K Skinner**

**RESOLVED** that Council urgently seek the approval of the Chairman of the Northern Region Planning Panel to formally extend the period for public submissions on DA10/0800 and DA10/0801 by 28 days, that is, to the close of business on Monday 21 March 2011, and that Council officers prepare an article for the Tweed Link which provides a summary of the main elements of these applications.

The Motion was **Carried**

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

**ORDINARY ITEMS FOR CONSIDERATION**

**REPORTS THROUGH THE GENERAL MANAGER**

**REPORTS FROM THE GENERAL MANAGER**

**6 [GM-CM] Lease Arrangements - Bob Whittle Murwillumbah Airfield**

**49**

**Cr P Youngblutt**  
**Cr J van Lieshout**

**RESOLVED** that the lease arrangements for Bob Whittle Murwillumbah Airfield be deferred to Council's March meeting.

The Motion was **Carried**

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

**7 [GM-CM] Code of Conduct - Complaint against Cr Polglase**

**50**

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

**RESOLVED** that this item be deferred until later in the meeting when Cr W Polglase is present.



The Motion was **Carried**

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

## REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

**51**

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

**RESOLVED** that Council notes the January 2011 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

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

**9 [PR-CM] Planning Proposal PP10/0002 - Lot 30 DP 850230 No. 61 Marana Street, Bilambil Heights (Royal Terranora Resort)**

**52**

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

**RESOLVED** that:

1. Council notes the revision to the Tweed Planning Proposal Assessment Process.
2. Council proceeds with the Planning Proposal PP10/0002 – Lot 30 DP 850230 No. 61 Marana Street, Bilambil Heights (Royal Terranora Resort), to seek additional studies as required to support and inform the amended planning proposal, and that the planning proposal be linked to the preparation of a Development Control Plan for the subject site.
3. Any Development Control Plan for the site provide a staging strategy for the redevelopment and ensure future redevelopment of the site is capped at the equivalent traffic generation as would currently and reasonably be permitted under the 6(b) zone, until such time as the Kennedy Drive bypass (consisting of dedication and construction of the full length of Cobaki Parkway, the new bridge over Cobaki Creek and the Scenic Drive Deviation) is completed and dedicated to Council.

4. The amended planning proposal and supporting studies be subject to a subsequent report to Council seeking resolution to refer the Planning Proposal to the Department of Planning for a gateway determination.

The Motion was **Carried**

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

**10 [PR-CM] State Emergency Services**

**53**

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

**RESOLVED** that:

1. Council advises the State Emergency Service that it intends to cease voluntary contributions from 1 July 2011 and seeks to enter into discussions to develop a memorandum of understanding with the State Emergency Service.
2. Council officers prepare a draft memorandum of understanding between Tweed Shire Council and the State Emergency Service and report to Council for adoption prior to signing.

The Motion was **Carried**

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

**11 [PR-CM] Visitor Carparking at Lot 1 DP 525502, No. 4 Second Avenue, Tweed Heads**

**54**

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

**RESOLVED** that:

1. ATTACHMENT 3 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege
2. The Owners Corporation for Strata Plan 35133 be advised in writing that Council is taking no further action in this matter and that the vehicles being parked on the

driveway that is part of the common property not designated as visitor spaces either on the plans subject of the development consent or building approval is a private matter that can and should be dealt with by the Owner's Corporation for the Strata Plan.

The Motion was **Carried**

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

**12 [PR-CM] Legal Assistance Ballina Shire Council**

**55**

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that Council declines to provide assistance with the legal fees and advises the Local Government and Shires Association of NSW accordingly.

The Motion was **Carried**

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

**13 [PR-CM] A Sustainable Population Strategy for Australia**

**56**

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that Council endorses:

1. This report be forwarded to the Department of Sustainability, Environment, Water, Population and Communities as Council's formal response to the public exhibition of the issue paper "A sustainable population strategy for Australia"; deadline 1 March 2011; and
2. Council continues to actively seek community views and co-ordinate input in any further consultation relating to the advancement of a national Sustainable Population Strategy.

The Motion was **Carried**

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

**14 [PR-CM] National Iconic Landscape Strategy**

**57**

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that:

1. The report on National Iconic Landscape Strategy be received and noted;
2. Council considers whether to allocate funding to the update of the Tweed Scenic Landscape Evaluation 1995 and to prepare a scenic landscape protection strategy / development control plan and revision of the landscape provisions of DCP A5, as part of the upcoming review of the Planning Reforms Unit Work Program and related 2011/12 Operational Plan and Budget processes.

The Motion was **Carried**

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

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

**58**

**Cr D Holdom  
Cr P Youngblutt**

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

1. The proposed development does not comply with Development Control Plan A1: Residential and Tourist Development Code (Part B), in particular:
  - Rear setback
  - Rear deep soil zone
  - Impermeable site area
  - Floor space ratio
  - Overshadowing
2. The proposed development does not comply with Development Control Plan A2: Site Access and Parking Code, in particular:
  - On-site car parking
  - Driveway access

3. In accordance with Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed development is not considered to be compliant with Environmental Planning Instruments.

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

The Tweed LEP 2000:

- Clause 4: Aims of this plan - – proposed density of the site is not compatible with the existing and future streetscape and amenity of the area
- Clause 8(1): Consent Considerations - the proposal sets an unacceptable precedent for densification of steep residential areas
- Clause 11: Zoning - the proposal does not achieve a good urban design outcome.

4. Pursuant to Section 79C (1) (c) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed site is not considered suitable for the proposed development.

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

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

It is in the broader general public interest to enforce the standards contained within the Development Control Plan 2008 and Tweed LEP 2000 specifically as it relates to residential development controls and the objectives of the 2(b) Medium Density Residential zone.

The Motion was **Carried**

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

- 16 [PR-CM] Development Application DA10/0842 for an In-ground Swimming Pool, Dwelling House Additions, Carport and Shed within 30m of Designated Road at Lot 3 Section 1 DP 30012, No. 663 Terranora Road, Terranora**

**59**

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that:

1. Council assumes the concurrence of the Director-General of the Department of Planning for the approval of the SEPP1 objection to vary the thirty metre (30m) building setback requirement.
2. Development Application DA10/0842 for an in-ground swimming pool, dwelling house additions, carport and shed within 30m of designated road at Lot 3 Section 1 DP 30012, No. 663 Terranora Road, Terranora be approved subject to the following conditions:

**GENERAL**

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

[GEN0015]

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

[GEN0115]

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

[GEN0135]

4. Smoke alarms shall be installed in the existing dwelling in accordance with Part 3.7.2 of the Building Code of Australia. A certificate from a licensed electrician certifying that the smoke alarms have been connected to the consumer mains power is to be submitted to the PCA and Tweed Shire Council.

[GENNS01]

**PRIOR TO COMMENCEMENT OF WORK**

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

[PCW0005]

6. 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]

- 7. 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]

- 8. 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]

9. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the site is prohibited.

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

[PCW0255]

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

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

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

[PCW0985]

## **DURING CONSTRUCTION**

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

[DUR0005]

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

[DUR0245]

14. 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]

15. 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]

16. 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]

17. 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]

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

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

[DUR1005]

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

[DUR1875]

20. Swimming Pools (Building)

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

[DUR2075]

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

[DUR2085]

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

[DUR2185]

23. The additional rainwater drains must be connected to the existing rainwater disposal system; to provide satisfactory stormwater disposal in accordance with Australian Standard AS/NZS3500.3.2.

[DUR2255]

24. 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]

25. 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]

### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

26. 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]

27. 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]

28. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.

[POC1055]

### **USE**

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

[USE0125]

- 29A. The proposed shed is not to be used or adapted for separate residential habitation or occupation.

30. Swimming Pools (Building)

- (a) It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).
- (b) The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).
- (c) Warning notices required under Part 3 of the Swimming Pool Regulations 2008 shall be maintained at all times.

[USE1295]

31. The swimming pool is not to be used for commercial purposes without prior Development Consent.

[USE1305]

The Motion was **Carried**

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

**AGAINST VOTE - Cr K Milne**

**ABSENT. DID NOT VOTE - Cr W Polglase**

**17 [PR-CM] Development Application DA10/0790 for a Three (3) Lot Subdivision at Lot 1 and 2 DP 746783, No. 58 McCollums Road, Duranbah**

**60**

**Cr P Youngblutt**

**Cr D Holdom**

**RESOLVED** that Development Application DA10/0790 for a three (3) lot subdivision at Lot 1 and 2 DP 746783, No. 58 McCollums Road, Duranbah be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan No 1A prepared by Planit Consulting, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0125]

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

[GEN0135]

4. A 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 should be fitted with a first flush device and adequately maintained to ensure a safe and suitable drinking water supply, where applicable. The minimum storage tank capacity shall reflect the dry seasonal periods experienced in the locality and shall be in addition to any fire fighting capacity requirements stipulated by the NSW Rural Fire Services. The minimum storage capacity required shall be 15,000L per bedroom with a minimum 20,000L to be provided.

[GEN0310]

5. The design and installation of the on-site sewage management system on proposed lot 1 shall comply with the recommended on-site sewage treatment and disposal method as detailed in the HMC On-Site Sewage Management Design Report, March 2007 (HMC 2006.171A) including all recommendations of that report to the satisfaction of the General Manager or his delegate.

[GENNS01]

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

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

[DUR1005]

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

7. 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]

- 8, Section 94 Contributions

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

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

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

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

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

- |  |           |
|--|-----------|
| (a) Tweed Road Contribution Plan:  |           |
| 6.5 Trips @ \$861 per Trips  | \$5597    |
| (\$782 base rate + \$79 indexation)  |           |
| S94 Plan No. 4   |           |
| Sector6_4  |           |
| (b) Open Space (Casual):   |           |
| 1 ET @ \$526 per ET  | \$526     |
| (\$502 base rate + \$24 indexation)  |           |
| S94 Plan No. 5   |           |
| (c) Open Space (Structured):   |           |
| 1 ET @ \$602 per ET  | \$602     |
| (\$575 base rate + \$27 indexation)  |           |
| S94 Plan No. 5   |           |
| (d) Shirewide Library Facilities:  |           |
| 1 ET @ \$792 per ET  | \$792     |
| (\$792 base rate + \$0 indexation)   |           |
| S94 Plan No. 11  |           |
| (e) Eviron Cemetery:   |           |
| 1 ET @ \$120 per ET  | \$120     |
| (\$101 base rate + \$19 indexation)  |           |
| S94 Plan No. 13  |           |
| (f) Community Facilities (Tweed Coast – North)                                     |           |
| 1 ET @ \$1305.6 per ET   | \$1306    |
| (\$1305.6 base rate + \$0 indexation)  |           |
| S94 Plan No. 15  |           |
| (g) Extensions to Council Administration Offices<br>& Technical Support Facilities |           |
| 1 ET @ \$1759.9 per ET   | \$1759.90 |
| (\$1759.9 base rate + \$0 indexation)  |           |
| S94 Plan No. 18  |           |
| (h) Regional Open Space (Casual)   |           |
| 1 ET @ \$1031 per ET   | \$1031    |
| (\$1031 base rate + \$0 indexation)  |           |

S94 Plan No. 26

(i) Regional Open Space (Structured):

1 ET @ \$3619 per ET

\$3619

(\$3619 base rate + \$0 indexation)

S94 Plan No. 26

[PCC0215/PSC0175]

9. 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]

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

(a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.

(b) Right of carriageway

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]

11. 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]

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

The following information must accompany an application:

(a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.

(b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.

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

[PSC0885]

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

[PSC0945]

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

[PSC1165]

15. The production of written evidence from the local electricity supply authority certifying that the reticulation of overhead electricity (rural subdivisions) and energising has been provided to each allotment.

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

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

[PSC1175]

16. Prior to the issue of a subdivision certificate the applicant is required to lodge a Section 68 application to operate the two existing on-site sewage management systems on proposed lots 2 & 3, pay the appropriate fee and be issued with an approval.

[PSCNS01]

17. The proposed right of carriageway access through future Lot 3 to future Lot 2 is to be constructed in accordance with Council's Development Design specifications. The proposed right of way is required to be a minimum pavement width of 3.6m with a two coat bitumen seal.

[PSCNS02]

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

1. A 20 metre APZ shall be maintained around the existing dwelling and sheds. The APZ's shall be managed as an inner protection area (IPA) as outlined within Appendices 2 & 5 of Planning for Bushfire 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 D Holdom, Cr B Longland, Cr J van Lieshout, Cr K Skinner**

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**AGAINST VOTE - Cr K Milne**

**ABSENT. DID NOT VOTE - Cr W Polglase**

**18 [PR-CM] Development Application DA10/0099 for a Five (5) Lot Subdivision at Lot 192 DP 217678, Lot 22 DP 1058759 Poplar Avenue and Lot 2 DP 873399 Poinciana Avenue, Bogangar**

**61**

**Cr D Holdom**

**Cr B Longland**

**RESOLVED** that Development Application DA10/0099 for a five (5) lot subdivision at Lot 192 DP 217678; Lot 22 DP 1058759 Poplar Avenue and Lot 2 DP 873399 Poinciana Avenue, Bogangar be refused for the following reasons:

1. The Department of Planning has not issued concurrence.
2. The proposed subdivision does not comply with the 40 hectare minimum development standard contained within Clause 20(2)(a) of the Tweed LEP 2000.
3. The SEPP 1 objection has not demonstrated that the development standard is unnecessary and unreasonable.
4. The applicant has not addressed matters for consideration under Clause 7 of SEPP 14 in relation to clearance of mapped wetland and concurrence for the proposal is required by the Director of National Parks and Wildlife.

The Motion was **Carried**

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

**AGAINST VOTE - Cr P Youngblutt**

**ABSENT. DID NOT VOTE - Cr W Polglase**

**19 [PR-CM] Development Application DA08/1024 for a Six (6) Storey Mixed Use Development Comprising 50 Units and 1 Commercial Premise with Basement Carparking at Lot 7 & 8 Section 4 DP 2379, No. 41-43 Boyd Street, Tweed Heads**

**62**

**Cr D Holdom**

**Cr P Youngblutt**

**RESOLVED** that:

1. State Environmental Planning Policy No. 1 objection to Clause 50 of Tweed Local Environmental Plan 2000 regarding the Floor Space Ratio (FSR) of 1:1 for land zoned 3(b) General Business with a site area of less than 2000m<sup>2</sup> height be



supported and the concurrence of the Director-General of the Department of Planning be assumed.

2. Development Application DA08/1024 for a six (6) storey mixed use development comprising 50 units and 1 commercial premise with basement carparking at Lot 7 and 8 Section 4 DP 2379, Nos. 41-43 Boyd Street, Tweed Heads be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and the following Plans:
  - Dwg DA01 - A (Rev H) – Ground Floor / Site Plan, dated 19 May 2010;
  - Dwg DA02 - A (Rev B) – Units Typical Floors, dated June 2008;
  - Dwg DA03 (Rev H) – Basement 1, dated 19 May 2010;
  - Dwg DA04 (Rev C) – Basement 2, dated 15 April 2010;
  - Dwg DA05 (Rev A) – Boyd St Elevation, dated June 2008;
  - Dwg DA06 - A (Rev B) – North Side Elevation, dated June 2008;
  - Dwg DA07 (Rev C) – South Side Elevation, dated 15 April 2010;
  - Dwg DA08 (Rev A) – Rear Elevation, dated June 2008;
  - Dwg DA09 - A (Rev B) – Section AA, dated June 2008;
  - Dwg DA10 (Rev B) – Unit Types, dated June 2008;
  - Dwg DA11 (Rev A) – Roof Plan, dated June 2008;
  - Dwg DA14 - A (Rev B) – Car Ramp Cross Section, dated 19 May 2010;

prepared by Freespace Design, except where varied by the conditions of this consent.

[GEN0005]

2. Submission of a further Development Application(s) for the first use of the ground floor commercial premises, such to be approved by Council prior to their use or occupation.

[GEN0055]

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

[GEN0115]

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

[GEN0135]

5. The applicant shall arrange for a site inspection to be carried out with Council's Environmental Health Officer and key representatives involved in the dewatering activity including consultants and personnel responsible under any Dewatering Management Plan approved by Council's General

Manager or his delegate. Such site inspection shall be arranged and carried out prior to the commencement of any offsite dewatering activity occurring.

[GEN0180]

6. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.

[GEN0265]

7. A separate development application is to be submitted to Council for demolition of the existing structures.

[GENNS01]

8. A concrete footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Boyd Street in accordance with Council's Development Design and Construction Specifications and Standard Drawing SD013.

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

[GENNS02]

9. The Basement 1 commercial parking and visitor parking spaces are to have unrestricted access to the general public.

10. An intercom system is to be installed at the main entrance of the residential component of the development.

[GENNS03]

11. The applicant shall consent to the installation of a 150mm diameter sewer vent pipe at the rear wall of the premises from below ground level to above the roofline to facilitate the venting of the adjoining sewer pump station at a level above the roofline of the proposed structure, including the acceptance of a positive covenant or easement to facilitate access for maintenance of the vent. Council will negotiate the design of the vent so as not to detract from the amenity of building and be responsible for all costs inclusive of legal, design and construction.

[GENNS04]

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

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

- A minimum of 50 car parking spaces designated to the residence of the development,
- A minimum of 11 designated visitor car spaces,
- A minimum of 9 car spaces designated to the Commercial component of the development,
- One designated loading bay, as referenced on Drawing No. DA03 Revision C, dated 06/2008,
- A minimum of 2 bunded car wash bays, being nominated parking spaces 20 and 21 on Drawing No. DA03 Revision C, dated 06/2008,

- Storage for a minimum 2 bicycles per residential unit,
- Parking for a minimum 4 bicycles for the Commercial component of the development,

Note – Council will accept nominated parking spaces No. 7, 8 and 11 as tandem spaces only, provided they are designated as staff parking only for the Commercial precinct of the development.

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

Access to the basement car park must be designed accordingly to provide sufficient clearance to allow appropriate vehicles to access the basement stormwater treatment device for servicing or the building proper must provide acceptable alternative access facilities.

The access to the basement car park must also be designed accordingly to provide sufficient clearance to allow all service vehicles access to the designated loading bay.

[PCC0065]

13. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form, be accompanied by the required attachments and prescribed fee.

Receipt of approval is to be obtained prior to the issue of a construction certificate for works within the development site.

[PCC0075]

14. Section 94 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

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

- (a) Tweed Road Contribution Plan:

222.32 Trips @ \$656 per Trips (\$596 base rate + \$60 indexation) S94 Plan No. 4 Sector1_4	\$145,842
(b) Open Space (Casual): 25.085 ET @ \$526 per ET (\$502 base rate + \$24 indexation) S94 Plan No. 5	\$13,195
(c) Open Space (Structured): 25.085 ET @ \$602 per ET (\$575 base rate + \$27 indexation) S94 Plan No. 5	\$15,101
(d) Shirewide Library Facilities: 25.085 ET @ \$792 per ET (\$792 base rate + \$0 indexation) S94 Plan No. 11	\$19,867
(e) Bus Shelters: 25.085 ET @ \$60 per ET (\$60 base rate + \$0 indexation) S94 Plan No. 12	\$1,505
(f) Eviron Cemetery: 25.085 ET @ \$120 per ET (\$101 base rate + \$19 indexation) S94 Plan No. 13	\$3,010
(g) Community Facilities (Tweed Coast – North) 25.085 ET @ \$1305.6 per ET (\$1305.6 base rate + \$0 indexation) S94 Plan No. 15	\$32,751
(h) Extensions to Council Administration Offices & Technical Support Facilities 25.2954 ET @ \$1759.9 per ET (\$1759.9 base rate + \$0 indexation) S94 Plan No. 18	\$44,517.37
(i) Cycleways: 25.085 ET @ \$447 per ET (\$447 base rate + \$0 indexation)	\$11,213

S94 Plan No. 22	
(j) Regional Open Space (Casual)	
25.085 ET @ \$1031 per ET	\$25,863
(\$1031 base rate + \$0 indexation)	
S94 Plan No. 26	
(k) Regional Open Space (Structured):	
25.085 ET @ \$3619 per ET	\$90,783
(\$3619 base rate + \$0 indexation)	
S94 Plan No. 26	

[PCC0215]

15. Section 94 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

Heavy Haulage Component

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

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

where:

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

and:

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

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

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

Admin. Administration component - 5% - see Section 6.6

[PCC0225/PSC0185]

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Water DSP4:	16.18 ET @ \$11020 per ET	\$178303.60
Sewer Banora:	25.52 ET @ \$5295 per ET	\$135128.40

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

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

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

[PCC0265]

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

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

[PCC0485]

18. A detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.

[PCC0585]

19. The basement car parking is to be protected against the inflow of water to a level of 500mm above the design flood level of RL 2.6m AHD in accordance with Tweed Shire Council Development Control Plan Part A3 - Development of Flood Liable Land. This immunity shall be provided at all accesses including external stairs to the basement car park. The pump system shall be designed for a storm event with a 10 year average return interval (ARI 10) and shall have failsafe measures in place such that property (onsite and adjacent) is protected against pump failure. Consequences of the 100 year ARI storm event must also be addressed. Details of the basement

stormwater pump-out system shall be submitted to and approved by the Principle Certifying Authority prior to the issue of a Construction Certificate.

Installed pumps must be designed and installed in accordance with Section 9 of AS/NZS3500.3.2 1998 *“National Plumbing and Drainage – Part 3.2: Stormwater Drainage – Acceptable Solutions”*

[PCC0685]

20. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -

- (a) Provision of a unit development access in accordance with Section A2 – *“Site Access and Parking Code”* of Council’s consolidated Tweed Development Control Plan and Council’s *“Driveway Access to Property – Part 1”* Design Specification June 2004.

The access shall provide the required 2m x 2m “sight triangle” envelope.

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

- Road works/furnishings
- Stormwater drainage
- Water and sewerage works
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

21. Any sheet piling that utilises ground anchors that extend under public roads or land must not be used unless the applicant or owner enter into a contract regarding liability for the ground anchors and lodges an application under Section 138 of the Roads Act together with an application fee of \$10,000 and a bond of \$25,000 for each road frontage. This bond will be refunded upon the removal of the ground anchors. If the ground anchors are not removed prior to the occupation/use of the development, the bond shall be forfeited to Council.

[PCC0955]

22. Permanent stormwater quality treatment shall be provided in accordance with the following:

- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 – Stormwater Quality*.

- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.
- (c) Specific Requirements to be detailed within the Construction certificate application include:
- (d) Shake down area shall be installed within the property, immediately prior to any vehicle entering or exiting the site prior to any earthworks being undertaken.
- (e) Runoff from all hardstand areas, (including car parking and hardstand landscaping areas and excluding roof areas) must be treated to remove oil and sediment contaminants prior to discharge to the public realm. All permanent stormwater treatment devices must be sized according to Council's Development Design Specification D7 – *Stormwater Quality*, Section D7.12. Engineering details of the proposed devices, including maintenance schedules, shall be submitted with a s68 Stormwater Application for approval prior to issue of a Construction Certificate.
- (f) Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly.

[PCC1105]

23. 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]

24. The development will be required to provide a single bulk water service at the road frontage. Individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

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

[PCC1185]

25. Prior to the issue of a Construction Certificate, applications shall be lodged and approved by Tweed Shire Council under Section 68 of the Local Government Act for any of the following works including (but not limited to):
- (a) water;



- Disconnection of existing water meters and provision of a Bulk meter,
- (b) sewerage, including;
- The car wash bays must be bunded and treated to remove pollutants prior to discharge in accordance with Council policy. If levels permit, discharge must be via the sewer network.
  - Decommissioning of the existing public sewer main within the site and construction of new sewer infrastructure, central to a 3m easement along the site northern property boundary,
  - Relocation must be made whilst maintaining service to all upstream properties
- (c) drainage works, including;
- the connection of a private stormwater drain to a public stormwater drain,
  - the installation of stormwater quality control devices,
  - erosion and sediment control works.

The Legal Point of Discharge for piped stormwater for the development is via direct connection into the existing kerbside inlet pit along developments frontage to Boyd Street.

[PCC1195]

26. Where any existing sewer junctions are to be disused on the site, the connection point shall be capped off by Council staff. Applications shall be made to Tweed Shire Council and include the payment of fees in accordance with Councils adopted fees and charges.

[PCC1235]

27. Prior to the issue of the construction certificate details of the proposed sewer diversion are to be submitted to and approved by Councils Water/Sewer Engineer.

[PCCNS01]

28. An assessment of the capacity of the downstream piped drainage network within Boyd Street will be required with the s68 Stormwater Application and, if found necessary, details of on-site detention of roof runoff will be required to demonstrate that total stormwater volumes (pre and post development) do not exceed the capacity of the downstream network.

[PCCSN02]

29. Privacy screens are required on the balconies of the north facing units. Details of the screening devices are to be submitted and approved by the General Manager or his delegate prior to the issue of a construction certificate.

[PCCNS03]

30. Details of the design of the sewer vent pipe at the rear wall of the development are to be negotiated with Council and approved by the General Manager or his delegate prior to the issue of a construction certificate.

**PRIOR TO COMMENCEMENT OF WORK**

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

[PCW0005]

32. Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining premises shall be notified accordingly prior to commencement of such operations.

[PCW0125]

33. 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]

34. 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]

35. 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]

36. 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]

37. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

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

[PCW0255]

38. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land or is likely to effect the integrity of the adjoining land, the person causing the excavation to be made must comply with the following:
- (a) The person must, at the person's own expense:
    - (i) preserve and protect the building / property from damage; and
    - (ii) if necessary, underpin and support the building in an approved manner.
  - (b) The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0765]

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

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

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

[PCW0985]

40. 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]

41. An Approval to Install a Waste Treatment Device shall be obtained prior to the commencement of the installation of the facility.

[PCW1105]

42. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by the General Manager or his delegate prior to any discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges.

[PCW1075]

## **DURING CONSTRUCTION**

43. 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]

44. The provision of 50 residential, 11 visitor, 1 loading bay and 9 commercial car parking spaces including parking for the disabled where applicable.

Appropriate signage for all visitor, commercial and staff parking shall be installed and maintained. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.

[DUR0085]

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

- A. Short Term Period - 4 weeks.

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

- B. Long term period - the duration.

$L_{Aeq, 15 \text{ min}}$  noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0215]

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

[DUR0225]

48. All waters pumped from the site in the dewatering process are to be treated with an effective deodoriser to the satisfaction of Council's General Manager or his delegate to neutralise any offensive odours. The point of discharge shall be approved by Council's General Manager or his delegate prior to installation and shall include a water sampling outlet.

[DUR0235]

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

[DUR0245]

50. Pumps used for dewatering operations are to be electrically operated. Diesel pumps are not to be used unless otherwise approved by the Tweed Shire Council General Manager or his delegate.

[DUR0255]

51. 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]

52. 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]

53. 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]

54. 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]

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

[DUR0815]

56. 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]

57. Provision to be made for the designation of 2 car wash-down area/s. The area/s must be appropriately sized and identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must be treated prior to discharge into the sewer system.

[DUR0975]

58. 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]

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

[DUR0995]

60. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -
- Noise, water or air pollution
  - dust during filling operations and also from construction vehicles
  - material removed from the site by wind
- [DUR1005]
61. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited.
- [DUR1015]
62. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.
- [DUR1025]
63. Landscaping of the site shall be carried out in accordance with the submitted/approved landscaping plans.
- [DUR1045]
64. All works shall be carried out in accordance with the Acid Sulfate Soil Assessment for 41-43 Boyd Street, Tweed Heads prepared by Soil Surveys Engineering Pty Ltd dated June 2009 (Report: 208-8024).
- [DUR1065]
65. A survey certificate signed by a registered surveyor is to be submitted to the Principal Certifying Authority at floor stage to certify that the habitable floor level of the building to be at a level of not less than RL 3.1m AHD.
- [DUR1445]
66. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.
- [DUR1715]
67. 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]
68. 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]

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

[DUR1875]

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

[DUR1905]

71. During construction, a "satisfactory inspection report" is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR1925]

72. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.

[DUR1945]

73. A certificate from a suitably qualified practicing structural engineer shall be submitted to Council and the Principle Certifying Authority within seven (7) days of the site being excavated certifying the adequacy of the sheet piling or other retaining method used to support adjoining properties.

[DUR1965]

74. Swimming Pools (Building)

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

[DUR2075]

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

[DUR2085]

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

[DUR2185]

77. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage



and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary.

[DUR2205]

78. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed.

[DUR2245]

79. Council's Environmental Health Officer shall be advised within 24 Hours in the event of detection of any failure associated with the dewatering activity being carried out on the site.

[DUR2315]

80. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR2445]

81. 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]

82. 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]

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

[DUR2505]

84. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.

[DUR2515]

85. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.

[DUR2525]

86. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR2535]

87. 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]

88. 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]

89. Pre-treatment devices must be serviced by a Council approved waste contractor. The applicant will be required to enter into a service agreement with this waste contractor. Pre-treatment device service frequency will be approved by Councils Manager Water.

[DUR2595]

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

[DUR2615]

91. The proponent shall comply with all requirements tabled within any approval issued under Section 68 of the Local Government Act.

[DUR2625]

92. 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 affect or be affected by the sewer main.

[DUR2645]

93. A hose tap shall be provided adjacent to a grease arrester for cleaning purposes and shall be fitted with a RPZD for the purpose of back flow prevention.

[DUR2675]

94. A trade waste agreement will be issued and a permit number allocated once the device has been installed, inspected and Council has received a copy of the Waste Contractor's Service Agreement

[DUR2685]

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

[DUR2705]

96. A sewer service is to be maintained to all upstream properties during any sewer relocation works.

[DURNS01]

97. Prior to acid sulfate soil material being removed from the subject site for treatment, written documentation from the owner(s) of all properties receiving such material shall be provided confirming that this activity is permitted at the receiving site.

[DURNS02]

98. The names and 24 hour contact phone numbers of the site manager, project manager and all other persons provided with responsibilities under the provisions of the Amended Dewatering Management Plan for 41-43 Boyd Street, Tweed Heads prepared by HMC Environmental Consulting Pty Ltd dated March 2010 (Report: HMC 2009.079) shall be provided to Council's Environmental Health Officer prior to the commencement of dewatering operations.

99. Prior to the commencement of de-watering operations an examination of the quantity of pre-existing sediment within the stormwater drainage network that is intended to receive the de-watering discharge shall be undertaken by methods considered acceptable to Council's Stormwater Maintenance Engineer. Closed circuit television (CCTV) footage and a report of the findings of the examination shall be provided to Council's Stormwater Maintenance Engineer prior to the commencement of de-watering operations.

100. Prior to the commencement of de-watering operations the applicant or their nominated representative shall consult with Council's Stormwater Maintenance Engineer in respect to the most appropriate method of connection of the de-watering system to Council's stormwater drainage system. The applicant or their nominated representative shall comply with any and all directions as may be provided by Council's Stormwater Maintenance Engineer.

101. All dewatering operations shall be carried out in accordance with the provisions of the Amended Dewatering Management Plan for 41-43 Boyd Street, Tweed Heads prepared by HMC Environmental Consulting Pty Ltd dated March 2010 (Report: HMC 2009.079). A copy of the Plan shall be provided to the site manager, project manager and all other persons provided with responsibilities under the provisions of the Plan. In addition a copy of the Plan shall be kept onsite while dewatering operations are being carried out.

102. Hourly inspections extending over a 24 hour period of the stormwater discharge network that is receiving dewatering discharge shall be undertaken at the responsibility of the project manager during rainfall events. If the combined stormwater and dewatering flows are exceeding the capacity of the stormwater network, dewatering must temporarily cease until the peak flows from the catchment have subsided.

103. The frequency of the monitoring regime for the various parameters as listed within Section 12 of the Amended Dewatering Management Plan for 41-43 Boyd Street, Tweed Heads prepared by HMC Environmental Consulting Pty

Ltd dated March 2010 (Report: HMC 2009.079) shall be increased at the direction of Council's Environmental Health Officer.

104. Upon completion of the dewatering operations, the applicant shall arrange for an inspection of any dewatering connection point to Council's stormwater system with Council's Stormwater Maintenance Engineer. The applicant shall comply with any directions issued by Council's Stormwater Maintenance Engineer in respect to the dewatering connection point.

[DURNS03]

105. Swimming pool pumps, air conditioning units, heat pump water systems and any other mechanical plant and equipment shall be located and installed so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.

[DURNS04]

### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

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

[POC0005]

107. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

108. 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.

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]

109. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 138 of the Roads Act 1993.

[POC0745]

110. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining works in accordance with Councils Development Design and Construction Specifications.

[POC0755]

111. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate.

[POC0855]

112. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council. Written approval from Council's General Manager or his delegate must be issued prior to the issue of an Occupation Certificate.

[POC0865]

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

[POC0985]

114. 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]

115. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.

[POC1055]

116. Prior to the issue of an Occupation Certificate, a certificate of practical completion shall be obtained by Council for all works required under Section 68 of the Local Government Act.

[POCNS01]

117. Prior to the issue of an Occupation Certificate, documentary evidence shall be provided to Council to confirm the registration of a minimum 3m wide easement for drainage of sewer, located over any reticulated public sewer within the subject property. This easement shall be created in favour of Council.

No permanent structures are permitted within this easement.

[POCSN02]

118. Prior to the issue of an Occupation Certificate, Section 88B (Conveyancing Act 1919) Covenant(s) shall be placed over the subject land to ensure that all measures in the "Flood Response Assessment Plan" (Planit Consulting, August 2008) shall be enforced in perpetuity, to ensure compliance with flood emergency response provisions of Council's Development Control Plan Section A3 - Development of Flood Liable Land and Council's Flood Risk Management Policy.

[POCSN03]

119. Prior to the issue of an Occupation Certificate, documentary evidence shall be provided to Council to confirm the registration of a positive covenant or easement to facilitate access for maintenance of the sewer vent pipe. This easement shall be created in favour of Council.

[POCSN04]

## **USE**

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

[USE0125]

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

[USE0225]

122. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street.

[USE0435]

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

[USE0875]

124. Swimming Pools (Building)

(a) It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).

(b) The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).

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

[USE1295]

125. The swimming pool is not to be used for commercial purposes without prior Development Consent.

[USE1305]

126. All externally mounted air conditioning units, heat pump water systems, swimming pool pumps and any other mechanical plant and equipment shall be acoustically treated so as to avoid the creation of offensive or intrusive noise to any occupant of neighbouring or adjacent premises.

127. Swimming pool pumps, air conditioning units, heat pump water systems and any other mechanical plant and equipment shall not be operated should it be heard in a habitable room of a residence during restricted hours or at any other time should the noise from the article be deemed to be offensive as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.

[USENS01]

128. The ground floor common community space / gym are to be for the use of the residential component (Floors 1 – 5 above) only and are not to be used for commercial purposes.

[USENS02]

GENERAL TERMS OF APPROVAL FOR A LICENSE UNDER THE WATER ACT 1912 FOR DEVELOPMENT APPLICATION NUMBER DA08/1024

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NSW OFFICE OF WATER

- Before commencing any works or using any existing works for the purpose of groundwater de-watering an approval under Part 5 of the Water Act 1912 must be obtained from the NSW Office of Water. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
- Before commencing any works or using existing works for groundwater monitoring purposes an approval is required under Part 5 of the Water Act 1912 must be obtained from the NSW Office of Water
- An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.
- When the NSW Office of Water grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or let lapse.
- All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
- All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry or sediments into any river, lake, waterbody, wetland or groundwater system.
- The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
- All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
- The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.
- A license fee calculated in accordance with the Water Act 1912 must be paid before a license can be granted.
- If and when required by the NSW Office of Water, suitable devices must be installed to accurately measure the quantity of water extracted or diverted by the works.
- All water measuring equipment must be adequately maintained and tested as and when required by the NSW Office of Water to ensure its accuracy.
- Works for construction of bore must be completed with such period as specified by the NSW Office of Water.
- Within two months after the works are completed the NSW Office of Water must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are specified in the approval.

- Officers of the NSW Office of Water or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.
- Water shall not be extracted from the works for any purpose other than dewatering for construction purposes
- The use of water shall be conditional on no tailwater drainage being discharged into or onto:
  - Any adjoining public or crown road
  - Any other person's land
  - Any crown land
  - Any river, creek or watercourse
  - Any groundwater aquifer
  - Any area of native vegetation
  - Any wetlands
- The work shall be managed in accordance with the constraints set out in the "Dewatering Management Plan" prepared by HMC Environmental Consulting Pty Ltd for Baycrown Pty Ltd C/- Planit Consulting Pty Ltd, dated March 2010, Report No.2009.079 presented as Amended Dewatering Management Plan for the proposed development.
- The work shall be managed in accordance with the constraints set out in the "Acid Sulphate Soils Assessment" prepared by Soil Surveys Engineering Pty Limited for Planit Consulting Pty Ltd dated June 2008 Report No.208-8024 presented as part of the Statement of Environmental Effects for the proposed development.
- All works must be constructed and maintained to properly control the water extracted to prevent wastage or any reduction in quality of the sub-surface water. The NSW Office of Water may direct that any necessary repairs or alterations be undertaken to maintain the works in good working order.
- The volume of groundwater extracted as authorised must not exceed 15 megalitres.
- The NSW Office of Water has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent the overuse of an aquifer.
- The license shall lapse within three (3) months of the date of the issue of the license.

The Motion was **Carried**

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

**AGAINST VOTE - Cr K Milne**

**ABSENT. DID NOT VOTE - Cr W Polglase**



**20 [PR-CM] Development Application DA05/0840.02 for an Amendment to Development Consent DA05/0840 for Grazing of Cattle and Associated Works at Lot 76, 272, 323, 326 DP 755701, Duranbah Road, Kings Forest**

63

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

**RESOLVED** that Development Application DA05/0840.02 for an amendment to Development Consent DA05/0840 for grazing of cattle and associated works at Lot 76, 272, 323, 326 DP 755701, Duranbah Road, Kings Forest be approved subject to amendment of the following conditions:

1. Delete Condition No. 2 and replace it with Condition No. 2A which reads as follows:
  - 2A The Applicant shall provide for fencing as shown on the aerial photograph prepared by Aspect North and dated 5 May 2006 showing the location of the proposed paddock fences and fences around waterbodies, attached to this consent and Marked "A." In the event that Project Application 08\_0194 is approved, the grazing area and fencing thereof may be extended to the boundaries of the grazing areas shown on the plan prepared by Land Partners titled "Proposed Amended Grazing Area" and dated 27 May 2010, only to the extent that extension areas are approved for earthworks in the Project Application 08\_0194. The extended grazing areas must be fenced into east and west paddocks, generally in accordance with Aspect North plan dated 5 May 2006 marked "A".
2. Delete Condition No. 3.
3. Delete Condition No. 5 and replace it with Condition No. 5A which reads as follows:
  - 5A The maximum number of cattle permitted to be grazed on the subject land is 45. In this regard the maximum number of cattle permitted in the eastern paddock is 30 and the maximum number of cattle permitted in the western paddock is 15.
4. Insert new Condition No. 6.1 which reads as follows:
  - 6.1 The broadcasting of exotic pasture species shall not occur in any new grazing areas indicated in the Land Partners plan titled "Proposed Amended Grazing Area" and dated 27 May 2010"
5. Delete Condition No. 10 and replace it with Condition No. 10A which reads as follows:
  - 10A The development can occur for a maximum of five years from the date of commencement.

The Motion was **Carried**

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

**AGAINST VOTE - Cr K Milne**

**ABSENT. DID NOT VOTE - Cr W Polglase**

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

**64**

**Cr D Holdom**

**Cr P Youngblutt**

**PROPOSED** that Development Application DA09/0006.01 for an amendment to DA09/0006 for a four (4) lot industrial subdivision, construction of part of Ozone Street and associated drainage at Lot 1 DP 102255, No. 16-18 Ozone Street Chinderah be approved subject to the conditions be amended as follows:

Schedule A Conditions

1. Condition A (Habitat Restoration Plan) is to be DELETED and replaced with Condition AA which reads as follows:

AA. A Habitat Restoration Plan relating to a specific site and approved by Council's General Manager or his delegate which demonstrates adequate replacement on a 10 to 1 (gained to lost) basis of the sub-mature Forest Red Gum (*Eucalyptus tereticornis*) and Pink Bloodwood (*Corymbia intermedia*) impacted by the proposed development. The Habitat Restoration Plan must include:

- a schedule and timing of works to be undertaken
- written agreement from the owner of the agreed site to planting and/or restoration works on the land
- a suitable protection mechanism on the land to ensure the trees are protected in perpetuity
- a legally binding commitment by the consent holder to funding and/or undertaking the proposed works
- a statement of commitment by the consent holder that the works will be completed by qualified and experienced bush regeneration personnel.

2. A NEW Condition AA.1 be ADDED which reads as follows:

AA.1 A legally binding commitment by the consent holder to funding and/or undertaking a sufficient component of the works as detailed within the approved Plan and agreed by Council to offset the loss of Swamp Oak Floodplain Forest. The approved plan is the *Amended*

*Rehabilitation/Restoration Plan for Elsie Street, Banora Point: Lot 1 DP285117 prepared by Planit Consulting dated March 2010.*

3. Condition B be DELETED.
4. A NEW Condition C be ADDED which reads as follows:
  - C. The developer shall submit to Council an engineering design for all acoustic fencing (maximum 2.5m high) that provides for the adequate flow of flood water in both directions through the fence in order to prevent significant adverse impacts on adjoining properties, while maintaining the required acoustic properties. This design shall be certified by both a qualified hydraulic consultant and a qualified acoustic consultant, and be to the satisfaction of Council's General Manager or his delegate.
4. A NEW Condition D be ADDED which reads as follows:
  - D. The developer shall to submit to Council an asset handover report for all acoustic fencing assets in the public realm. The report must provide Council with a funding proposal that renders the assets revenue neutral to Council for its design life, to the satisfaction of Council's General Manager or his delegate, in order for Council to accept ownership of the assets.

Schedule B Conditions

5. Condition No. 1 is to be DELETED and a NEW Condition 1A is to be added which reads as follows:
  - 1A. The development shall be completed in accordance with the Statement of Environmental Effects and plans as follows:

Lot Layout Plan (T.15.21/DWG 17/Issue A) prepared by Cozens Regan Williams Prove and dated 11/10 H

Amended Rehabilitation/Restoration Plan for Elsie Street, Banora Point: Lot 1 DP285117 prepared by Planit Consulting dated March 2010.

Cultural Heritage Assessment prepared by Everick Heritage Consultants and dated June 2010.
6. A NEW GEN Condition 1A.1 be ADDED which reads as follows:
  - 1A.1 All conditions of DA10/0552 must be satisfied prior to release of subdivision certificate.
7. Condition No. 4 is to be DELETED and a NEW Condition No. 4A is to be added which reads as follows:
  - 4A. The level of fill placed on the site shall not exceed RL 2.2m AHD.
8. Condition No. 7 is to be DELETED and a NEW Condition No. 7A is to be added as which reads follows:
  - 7A. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.

9. Condition No. 9 is to be DELETED and a NEW Condition No. 9A is to be added which reads as follows:

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

#### Intersection Works

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

#### Road Works

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

#### Stormwater

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

#### Sewer

- All common rising mains shall be located in road reserve. The location of connection of the rising main to sewerage shall be determined in consultation with Council during preparation of the engineering design plans so as to minimise the length of rising main so as to reduce any potential odour and septicity issues.
- Common sewer rising main to be accepted as Council infrastructure with each lot to have a private pressure pump station.

- The pump stations are to be designed within a small compound that includes the control box and concrete slab.
  - A boundary assembly shall be provided for each lot which is no more than 1m from the point on the boundary where the main from the pump station crosses into the road reserve.
  - The pump stations and rising main are to be designed in accordance with Council's design and construction specifications and the WSA 07 pressure sewer code of Australia.
10. Condition No. 16 is to be DELETED.
11. Condition No. 19 is to be DELETED.
12. Condition No. 20 is to be DELETED.
13. Condition No. 27 is to be DELETED and a NEW Condition No. 27A is to be added which reads as follows:
- 27A. Prior to the commencement of works on the access road and associated infrastructure works an inspection is to be arranged with Council's Environmental Health Officer to ensure the implementation of the Acid Sulfate Soil Management Plan prepared by HMC Environmental Consulting Pty Ltd dated 18 November 2010 is undertaken.
14. Condition No. 29 is to be DELETED and a NEW Condition No. 29A is to be added which reads as follows:
- 29A. Commencement of works in accordance with the approved Habitat Restoration Plans and legally binding agreement as detailed in Schedule A must be demonstrated prior to clearing of the Swamp Oak Floodplain Forest vegetation within Ozone Street road reserve or the Forest Red Gum (*Eucalyptus tereticornis*) and Pink Bloodwood (*Corymbia intermedia*) within Chinderah Road road reserve.
15. Condition No. 30 is to be DELETED and a NEW Condition No. 30A is to be added which reads as follows:
- 30A. A permit under s198-202 of the Fisheries Management Act 1994 for dredge and reclamation activities must be sought prior to commencement of any dredging or reclamation activities within the drainage channel.
16. Condition No. 31 is to be DELETED and a NEW Condition No. 31A is to be added which reads as follows:
- 31A. A permit under s205 of the Fisheries Management Act 1994 for harm to marine vegetation (seagrass, mangroves, kelp) must be sought prior to any activities which could result in harm to marine vegetation.
17. Condition No. 32 is to be DELETED and a NEW Condition No. 32A is to be ADDED which reads as follows:
- 32A. Environmental safeguards (silt curtains, booms etc.) are to be utilised during reconstruction of the drainage line to ensure there is no escape of turbid plumes into the aquatic environment. Erosion and sediment controls must be in place prior to commencing, during and after works. Sand, gravel, silt, topsoil or other materials must not be stockpiled within 50 metres of the water unless surrounded by sediment control measures.

18. Condition No. 33 is to be DELETED and a NEW Condition No. 33A is to be added which reads as follows:

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

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

19. Condition No. 46 is to be DELETED.
20. Condition No. 58 is to be DELETED and a NEW Condition No. 58A is to be added which reads as follows:

58A. All works associated with the access road and associated infrastructure are to be undertaken in accordance with the Acid Sulfate Soil Management Plan prepared by HMC Environmental Consulting Pty Ltd dated 18 November 2010.

#### New Conditions

21. The following new GEN Condition No. 4.1 be ADDED which reads as follows:
- 4.1. Construction of the subdivision shall be undertaken in accordance with the recommendations of the Cultural Heritage Assessment, prepared by Everick Heritage Consultants and dated November 2009.
22. NEW PSC Condition No. 85 is to be ADDED which reads as follows:
85. Prior to issue of the subdivision certificate the acoustic barrier approved by Schedule A of this consent shall be constructed to the satisfaction of Council's General Manager or delegate.
23. NEW PSC Condition No. 86 is to be ADDED which reads as follows:
86. Primary weeding and/or planting and establishment will be completed in accordance with Habitat Restoration Plans prior to issue of subdivision certificate.
24. NEW DUR Condition No. 62.1 is to be ADDED which reads as follows:
- 62.1 Vegetation clearing at all locations shall be limited to the minimum necessary for the road alignment, and all works sites, stockpile areas, storage facilities and vehicle parking and maintenance areas shall be located on already disturbed land, avoiding any necessity for the clearing of vegetation for these activities.

65

#### **AMENDMENT**

**Cr J van Lieshout  
Cr K Milne**

**RESOLVED** that Development Application DA09/0006.01 for an amendment to DA09/0006 for a four (4) lot industrial subdivision, construction of part of Ozone Street and associated drainage at Lot 1 DP 102255, No. 16-18 Ozone Street Chinderah be deferred until after all parties are consulted.

The Amendment was **Carried**

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

**AGAINST VOTE - Cr P Youngblutt, Cr D Holdom**

**ABSENT. DID NOT VOTE - Cr W Polglase**

The Amendment on becoming the Motion was **Carried** - (Minute No 65 refers)

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

**AGAINST VOTE - Cr P Youngblutt, Cr D Holdom**

**ABSENT. DID NOT VOTE - Cr W Polglase**

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

66

**Cr J van Lieshout**

**Cr K Milne**

**RESOLVED** that Development Application DA10/0552 for a proposed subdivision to create a public road, associated acoustic fencing and residual lot at Lot 12 DP 830659, Chinderah Road, Chinderah be deferred.

The Motion was **Carried**

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

**AGAINST VOTE - Cr D Holdom**

**ABSENT. DID NOT VOTE - Cr W Polglase**

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

Cr W Polglase attended the meeting at 05:04 PM.

23            **[CNR-CM] Sewerage Strategy for Future West Pottsville Area**

67

**Cr P Youngblutt**

**Cr B Longland**

**RESOLVED** that Council:

1. Provides in principle support to entering an agreement to contributing \$55,000 GST inclusive to have SIREX Water Utilities develop a private Sewerage and Water Strategy for the West Pottsville area based on stand alone private water and wastewater utility scheme under the Water Industry Competition Act 2006 (WIC Act) and Independent Pricing and Regulatory Tribunal (IPART) Licensing regime.
2. Undertakes a probity review to determine the appropriateness and legal impacts of the proposed agreement.
3. Seeks compensation from the developer for any Council contributions incurred if the developer seeks to withdraw from the process.

The Motion was **Carried**

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

**24 [CNR-CM] Integrated Water Cycle Management (IWCM) Strategy - Status Report**

**68**

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

**RESOLVED** that:

1. Council notes the progress of the implementation of the Integrated Water Cycle Management Strategy.
2. The 2011 Integrated Water Cycle Management Strategy Action Plan contained within the report be adopted.
3. Council Officers bring forward a further report detailing the progress of the implementation of the Integrated Water Cycle Management Strategy actions in 12 months.

The Motion was **Carried**

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

**69 COUNCIL DECISION:**

**Cr K Skinner**  
**Cr D Holdom**



**RESOLVED** that Standing Orders be suspended to deal with Item 7 of the Agenda that was previously deferred pending the attendance of Cr W Polglase (Minute No. 50 refers).

The Motion was **Carried**

**FOR VOTE - Unanimous**

**7 [GM-CM] Code of Conduct - Complaint against Cr Polglase**

Cr W Polglase declared a perceived non-significant, non-pecuniary Interest in this item, left the Chamber at 05:24 PM and took no part in the discussion or voting. The nature of the interest is Cr Polglase is the subject of the report.

**70**

**Cr D Holdom  
Cr J van Lieshout**

**RESOLVED** that Council:

1. Receives and notes the report and findings of the Sole Reviewer into the complaint against Cr W Polglase.
2. Notes the apology dated 9 February 2011 given by Cr W Polglase to Ms Elizabeth Jack has been acknowledged.

The Motion was **Carried**

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

Cr W Polglase has returned from temporary absence at 05:34 PM

**71**

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that Standing Orders be resumed.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**25 [CNR-CM] Clarrie Hall Dam Spillway Upgrade - Engagement of Design Consultants**

72

Cr D Holdom  
Cr P Youngblutt

**RESOLVED** that:

1. Council accepts the proposal from NSW Water Solutions for EC2010-208 Clarrie Hall Dam Spillway Upgrade - Detailed Design for the lump sum fee of \$134,552 (including GST).
2. The General Manager be given delegated authority to approve variations up to \$70,000 (including GST) above the total price to allow for works associated with the Early Tenderer Involvement (ETI) process, Tendering and Construction phases of the project.
3. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) or Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council 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 - Voting - Unanimous***

26 **[CNR-CM] Quarterly Variation Report for Contract EC2009-068 - Banora Point Wastewater Treatment Plant 18ML Upgrade construction: October 2010 to January 2011**

73

Cr D Holdom  
Cr P Youngblutt

**RESOLVED** that:

1. The total value of variations to date of **-\$73,912.14** inclusive of GST, for Contract EC2009-068 Construction of the Banora Point Wastewater Treatment Plant, be endorsed: -
  - a) Variation No. 1 – Deletion of the provisional sum for asbestos removal. **(-\$16,500.00 GST Incl.)**
  - b) Variation No. 2 – Asbestos investigation report (\$568.70 GST Incl.)

- c) Variation No. 3 – Deletion of the provisional sum for the sheet pile wall at the balance tank. (-\$327,800.00 GST Incl.)
  - d) Variation No. 4 – Sheet pile geotechnical investigation report (\$10,106.25 GST Incl.)
  - e) Variation No. 5 – Installation of groundwater monitoring bores behind proposed sheet pile wall at balance tank. (\$8,624.00 GST Incl.)
  - f) Variation No. 6 – Installation of sheet pile wall at balance tank. (\$119,625.00 GST Incl.)
  - g) Variation No. 7 – Checking for fauna in trees to be cleared (\$10,455.93 GST Incl.)
  - h) Variation No. 8 – Sorting and disposal of debris from clarifier excavation. (\$11,864.74 GST Incl.)
  - i) Variation No. 11 – September Rise and Fall (\$1,051.52 GST Incl.)
  - j) Variation No. 15 – Remove and replace unsuitable material on Road 04. (\$28,231.29 GST Incl.)
  - k) Variation No. 121 – Remove and replace unsuitable material on Road 01. (\$80,058.43 GST Incl.)
2. ATTACHMENT A be treated as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

The Motion was **Carried**

***FOR VOTE - Voting - Unanimous***

**27 [CNR-CM] Coastal Zone Management Plan for Cobaki and Terranora Broadwater**

**74**

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that Council:

1. Adopts the Coastal Zone Management Plan for Cobaki and Terranora Broadwater.
2. Submits the Coastal Zone Management Plan for Cobaki and Terranora Broadwater to the NSW Minister for Climate Change and Environment, for gazettal under the NSW Coastal Management Act 1979.

The Motion was **Carried**

***FOR VOTE - Voting - Unanimous***

**28 [CNR-CM] Tweed Coast Koala Habitat Study**

**75**

**Cr D Holdom**

**Cr P Youngblutt**

**RESOLVED** that Council:

1. Makes the Tweed Coast Koala Habitat Study available, and communicates its findings, to the public.
2. Supports interim protection of koala habitat on the Tweed Coast as recommended in the Tweed Coast Koala Habitat Study and detailed in a separate report to Council.
3. Proceeds with the preparation of Stage 2 of the Comprehensive Koala Plan of Management.

The Motion was **Carried**

***FOR VOTE - Voting - Unanimous***

**29 [CNR-CM] Proposed Biodiversity Grants**

**76**

**Cr K Milne**

**Cr D Holdom**

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

The Motion was **Carried**

***FOR VOTE - Voting - Unanimous***

**30 [CNR-CM] Appointment to NSW Coastal Panel**

77

**Cr D Holdom  
Cr K Milne**

**RESOLVED** that Council congratulates and endorses the appointment of Jane Lofthouse, Coordinator Natural Resource Management, to the NSW Coastal Panel.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**31 [CNR-CM] Draft Tweed Development Control Plan Section B25 - Coastal Hazards**

78

**Cr K Milne  
Cr B Longland**

**RESOLVED** that:

1. Council publicly exhibits the Draft Tweed Development Control Plan Section B25 - Coastal Hazards in accordance with the Environmental Planning and Assessment Act 1979.
2. The public exhibition of the Draft Tweed Development Control Plan Section B25 - Coastal Hazards be for a period of 60 days minimum.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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

79

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that Council:-

1. With reference to the request from Twin Towns and District Garden Club Inc, declines the request for the monthly rate to be maintained at \$70 per meeting for hire of the Tweed Heads Civic Centre and applies the Community rate of \$72 per meeting, and that Council's support is recognised with the following

acknowledgement "This programme has been supported by Tweed Shire Council".

2. With reference to the request from Twin Towns and District Garden, provides the Tweed Heads Civic Centre Auditorium for the rate of \$138 with the Friday set-up free of charge for the Annual Flower Show on 9 and 10 September 2011, and that Council's support is recognised with the following acknowledgement "This programme has been supported by Tweed Shire Council".
3. With reference to the request from Tweed Australian South Sea Islander Community Inc, provides the South Sea Islander Room at the Tweed Heads Civic Centre free of charge for monthly meetings between February and December 2011, 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***

**33 [CNR-CM] Fees & Charges: Council Buildings - Revised Policy "Community Buildings - Civic Buildings - Civic and Cultural Centres Policy"**

**80**

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that:

1. The draft Facility Hire and Use Policy and the associated Schedule of Fees and Charges be exhibited for 28 days.
2. Council consults with the affected parties with a view to implementing the Policy from 1 July 2011.
3. Council deletes the following Policies:
  - (a) "Civic Buildings - Civic and Cultural Centre"; and
  - (b) "Community Buildings".

The Motion was **Carried**

***FOR VOTE - Unanimous***

**34 [CNR-CM] Amwil Park Community Facility – Lease to Murwillumbah Boxing Club**

**81**

**Cr D Holdom  
Cr W Polglase**

**RESOLVED** that:

1. Council approves entering into a lease with the Murwillumbah Boxing Club for the premises located at Amwil Park, 9a Amwil Avenue, Murwillumbah, for a term of four years at a lease fee of \$1.00 per annum including maintenance responsibilities.
2. All documents be executed under the Common Seal of Council.

**82**

**AMENDMENT**

**Cr K Milne  
Cr K Skinner**

**PROPOSED** that this item be deferred.

The Amendment was **Lost**

**FOR VOTE - Cr B Longland, Cr K Milne**

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

The Motion was **Carried** (Minute No. 81 refers)

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

**AGAINST VOTE - Cr B Longland, Cr K Milne**

**35 [CNR-CM] Proposed Motorcycle Dirt Track**

**83**

**Cr W Polglase  
Cr P Youngblutt**

**RESOLVED** that:

1. Council Officers commence discussions with the NSW Canegrowers Association on the proposal to host a motorcycle dirt track on current cane growing land, being partial lot 602 DP1001049
2. Subject to positive discussions with the NSW Canegrowers Association, Council Officers commence discussions with Tweed Valley Motorcycle Club in relation to funding further investigations and a development application.

The Motion was **Carried**

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

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

**36 [CNR-CM] Garage Sale Trail**

**84**

**Cr K Milne**

**Cr J van Lieshout**

**RESOLVED** that Council:

1. Declines the offer to participate in the Garage Sale Trail
2. Investigates alternative programs such as Big Aussie Swap and Second Hand Saturday.

The Motion was **Carried**

***FOR VOTE - Unanimous***

## **REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS**

**37 [EO-CM] Kingscliff Foreshore Masterplan**

**85**

**Cr D Holdom**

**Cr P Youngblutt**

**RESOLVED** that Council endorses the concept layout for the Kingscliff Central Park for the purpose of public exhibition.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**38 [EO-CM] Streetlight Maintenance and Energy Efficient Lighting Upgrade**

**86**

**Cr D Holdom**

**Cr P Youngblutt**

**RESOLVED** that Council:



1. Accepts Country Energy's offer to upgrade existing street lighting lamps for energy efficiency.
2. Approves expenditure from the Haulage Fees Reserve funds of \$248,484 to Country Energy with the expected cost savings from the street lighting upgrade being reimbursed to the Fund in the following 11 months.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**39 [EO-CM] Floodplain Management Authorities of NSW, Chairperson for 2011**

**87**

**Cr D Holdom  
Cr W Polglase**

**RESOLVED** that Council congratulates and endorses Ian Dinham's appointment as Chairperson of the Floodplain Management Authorities of NSW (FMA).

The Motion was **Carried**

***FOR VOTE - Unanimous***

**40 [EO-CM] Kirkwood Road Project Progress Report**

**88**

**Cr W Polglase  
Cr P Youngblutt**

**RESOLVED** that Council receives and notes the progress report on Kirkwood Road, Tweed Heads.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**41 [EO-CM] Lease to Tweed Valley Respite Service Inc - Cabarita Beach Sports Centre - Les Burger Fields, Bogangar**

**89**

**Cr D Holdom  
Cr W Polglase**

**RESOLVED** that:

1. Council approves entering into a lease with Tweed Valley Respite Services Inc for a term of six months for the use of 2 offices and the hall at the Cabarita Beach Sports Centre at Tweed Coast Road, Bogangar, for a weekly rental of \$566, being part Lot 398 in DP 726500; and
2. All documentation be executed under the Common Seal of Council.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**42 [EO-CM] Application to Close Council Public Roads - Kings Forest**

**90**

**Cr D Holdom**

**Cr P Youngblutt**

**RESOLVED** that:

1. Council approves the closure of Council public road running in north-south direction within Lot 1 DP 129737 and forming part of the western boundary of Lot 38B in DP 13727;
2. Council approves the closure of Council public road running in a south westerly direction within Lot 1 DP 129737 and within Lot 1 DP 781633; and
3. All documentation be executed under the Common Seal of Council.

The Motion was **Carried**

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

**AGAINST VOTE - Cr K Milne**

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

**43 [TCS-CM] Quarterly Budget Review - 31 December 2010**

**91**

**Cr D Holdom**

**Cr W Polglase**

**RESOLVED** that the:

1. Quarterly Budget Review Statement as at 31 December 2010 be adopted.

2. Expenditure and income, as summarised below and detailed within the report, be voted and adjusted in accordance with the revised total expenditure and income for the year ending 30 June 2011.

Description	Change to Vote	
	Deficit	Surplus
<b>General Fund</b>		
<u>Expenses</u>		
Operating	676,500	0
Interest	0	0
Capital	13,277,670	0
Loan Repayments	0	0
Transfers to Reserves	0	0
	<u>13,954,170</u>	<u>0</u>
<u>Income</u>		
Rates, Charges and other Operating	0	22,000
Operating Grants & Conts	0	603,750
Capital Grants & Conts	0	5,376,295
Loan Funds	0	5,000
Recoupments	0	7,921,125
Transfers from Reserves	0	26,000
Asset Sales	0	0
	<u>0</u>	<u>13,954,170</u>
Net Surplus/(Deficit)		<u><b>0</b></u>
<b>Water Fund</b>		
<u>Expenses</u>		
Operating	0	2,499
Interest	0	0
Capital	0	395,000
Loan Repayments	0	0
Transfers to Reserves	2,260,158	0
	<u>2,260,158</u>	<u>397,499</u>
<u>Income</u>		
Rates, Charges and other Operating	0	0
Operating Grants & Conts	0	0
Capital Grants & Conts	0	0
Loan Funds	0	0
Recoupments	0	667,620
Transfers from Reserves	0	1,195,039
	<u>0</u>	<u>1,862,659</u>
Net Surplus/(Deficit)		<u><b>0</b></u>
<b>Sewer Fund</b>		
<u>Expenses</u>		
Operating	104,982	0
Interest	0	559,076
Capital	188,000	0
Loan Repayments	0	102,816
Transfers to Reserves	2,132,902	0
	<u>2,425,884</u>	<u>661,892</u>
<u>Income</u>		
Rates, Charges and other Operating	0	0

Description	Change to Vote	
	Deficit	Surplus
Operating Grants & Conts	0	0
Capital Grants & Conts	0	0
Loan Funds	0	0
Recoupments	0	1,180,875
Transfers from Reserves	0	583,117
Asset Sales	0	0
	<b>0</b>	<b>1,763,992</b>
Net Surplus/(Deficit)		<b>0</b>

The Motion was **Carried**

***FOR VOTE - Voting - Unanimous***

**44 [TCS-CM] Corporate Quarterly Report - 1 October to 31 December 2010  
Incorporating the 7 Year Infrastructure and Services Plan**

**92**

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that Council receives and notes the Corporate Quarterly Report including progress on the 7 Year Infrastructure and Services Plan for the period 1 October to 31 December 2010.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**45 [TCS-CM] Legal Services Report as at 31 December 2010**

**93**

**Cr W Polglase  
Cr K Milne**

**RESOLVED** that Council receives and notes the Legal Services Register as at 31 December 2010.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**46 [TCS-CM] In Kind and Real Donations - October to December 2010**

**94**

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

**RESOLVED** that Council notes the total donations of \$12,336.41 for the period October to December 2010.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**47 [TCS-CM] Advice to Council on National Broadband Network**

**95**

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

**RESOLVED** that Council receives and notes that the submission to the House of Representatives Committee on Infrastructure and Communications will be considered in the Confidential Agenda.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**48 [TCS-CM] Monthly Investment Report for Period Ending 31 January 2011**

This item was dealt with in conjunction with the Addendum Report a48 at Minute Number 96.

**a48 [TCS-CM] Monthly Investment Report for Period Ending 31 January 2011**

**96**

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

**RESOLVED** that in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at 31 January 2011 totalling **\$169,189,194** be received and noted.

The Motion was **Carried**

***FOR VOTE - Unanimous***

## REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

### 49 [SUB-TCKAG] Minutes of the Tweed Coast Koala Advisory Group Committee Meeting held Tuesday 30 November 2010

97

Cr K Milne  
Cr B Longland

**RESOLVED** that the:

1. Minutes of the Tweed Coast Koala Advisory Group Committee Meeting held Tuesday 30 November 2010 be received and noted; and
2. Executive Management Team's recommendations be adopted as follows:

#### 1. Discussion on Draft Koala Habitat Study

*"That Council:*

1. *Receives and notes the Tweed Coast Koala Habitat Study.*
2. *Makes the Tweed Coast Koala Habitat Study available, and communicates its findings, to the public.*
3. *Supports interim protection of koala habitat on the Tweed coast as recommended in the final Tweed Coast Koala Habitat Study (and detailed in a separate report to Council), namely:*

*There is a need to implement interim protection measures in the intervening period, prior to preparation and adoption of a CKPoM, in order to address the ongoing sequential loss of koala habitat on the Tweed Coast. The preparation of a Tree Preservation Order (TPO) to facilitate the protection of high-quality koala habitat and/or individual preferred koala food trees should be considered by the KAG and Council as a matter of priority.*

4. *Holds a workshop with the Tweed Coast Koala Advisory Group, Biolink Ecological Consultants and Council's Executive Management Team on the findings of the Tweed Coast Koala Habitat Study."*

The Motion was **Carried**

**FOR VOTE - Unanimous**

## ADJOURNMENT OF MEETING

Adjournment for dinner at 6.30pm

## RESUMPTION OF MEETING

The Meeting resumed at 7.26pm

**50 [SUB-TRRMAG] Minutes of the Tweed River Regional Museum Advisory Committee Meeting held Thursday 20 January 2011**

**98**

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that the:

1. Minutes of the Tweed River Regional Museum Advisory Committee Meeting held Thursday 20 January 2011 be received and noted; and
2. Executive Management Team's recommendations be adopted as follows:

**5. Tweed River Regional Museum building program**

- "1) *That Council considers the allocation of \$2m in loan funds for the Murwillumbah Museum project in its 2011/2012 budget deliberations.*
- 2) *That Council officers continue with the preparation of the Development Application for the proposed new museum building on Flagstaff Hill, Tweed Heads.*
- 3) *That Council:*
  - a) *Notes the request from the Museum Advisory Committee to engage the architect, Paul Berkemeier, to prepare detailed working drawings for Flagstaff Hill and Murwillumbah museums.*
  - b) *Advises the Museum Advisory Committee that until such time as the concept and budget for both projects is finalised, then the preparation of more detailed drawings is not appropriate."*

**6. Staffing at Tweed River Regional Museum**

*"That Council considers the allocation of sufficient funds in the 2011/2012 budget deliberations to employ a full time Assistant Curator for the Tweed River Regional Museum."*

The Motion was **Carried**

**FOR VOTE - Unanimous**

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

That the Minutes of Subcommittees/Working Groups not requiring a Council decision report was received and noted.

**ORDERS OF THE DAY**

**52 [NOM-Cr K Milne] Coal Seam Methane Gas Exploration in the Tweed Shire**

**99**

**Cr K Milne  
Cr B Longland**

**RESOLVED** that Council brings forward a preliminary report on the existing and proposed Petroleum Exploration Licences in the Tweed Shire including maps of these areas and any environmental implications including for Council's Water Supply.

The Motion was **Carried**

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

**53 [NOM-Cr K Milne] Dual Reticulation for Cobaki**

**100**

**Cr K Milne  
Cr B Longland**

**PROPOSED** that Council brings forward a report on the possibility of requiring any new Greenfield development, including current applications, to install pipes to enable dual reticulation to be provided, and a discussion on how these developments meet the Australian Water Commission objectives and initiatives.

The Motion was **Lost**

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

**54 [NOM-Cr K Milne] Independent Review of Council's Water Strategies**

This motion was ruled out of order by the Mayor, Cr K Skinner.

**ADJOURNMENT OF MEETING**

Adjournment at 7.49 pm to remove a member of the public gallery.

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## RESUMPTION OF MEETING

The Meeting resumed at 7.52pm

### 55 [NOM-Cr K Milne] Border Preservation for Green Space and Tourism

This item was withdrawn at the meeting.

### 56 [NOM-Cr K Milne] Youth Activities

This motion was declared out of order by the Mayor, Cr K Skinner.

### 57 [NOM-Cr K Milne] Boyd Street

101

Cr K Milne  
Cr B Longland

**RESOLVED** that Council brings forward a report on the effectiveness of previous management and mitigation measures designed for the Potoroo and other threatened species at the Boyds Street entry to Cobaki.

The Motion was **Carried**

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

### 58 [NOM-Cr K Milne] Flood Information

This motion lapsed due to the lack of a seconder.

### 59 [NOM-Cr K Milne] Rubbish in Floods

102

Cr K Milne  
Cr B Longland

**PROPOSED** that Council brings forward a report on developing a policy or coordinating with relevant agencies to ensure that rubbish and toxic substances are not swept into waterways in times of flood.

The Motion was **Lost**

**FOR VOTE - Cr B Longland, Cr K Milne**

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

**60 [NOM-Cr K Milne] Audio and Visual Recording**

This motion lapsed due to the lack of a seconder.

**61 [NOM-Cr K Milne] Art Deco Tourism**

This motion lapsed due to the lack of a seconder.

**62 [NOM-Cr K Milne] Trampolines**

This motion lapsed due to the lack of a seconder.

**63 [NOM-Cr J van Lieshout] Constitutional Referendum**

**103**

**Cr J van Lieshout  
Cr K Milne**

**PROPOSED** that Council holds a Constitutional Referendum pursuant to Divisions 2 and 3 of the Local Government Act 1993 at the next election held by Council for any reason to determine the following:

Whether there should be a change in the way the Mayor is chosen so that the Mayor is elected by the people of the Tweed Shire by way of "popular" election.

The Motion was **Lost**

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

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

**QUESTION TIME**

**64 [QON-Cr K Milne] Flood Immunity in Construction Sites**

**QUESTION ON NOTICE:**

Councillor K Milne asked:

What level of flood immunity are construction works required to be designed to ie a 1 in 2 year flood and what level is in place now at the Cobaki site?

The Acting General Manager advised that subdivision works are regulated by DCP A5 Subdivision Manual and associated Development Specifications.

The relevant part regarding protection of construction works from erosion and production of sediment is contained in "Development Design specification D7 - Stormwater Quality" and in particular Annexure A of that specification "Code of Practice for Soil and Water Management on Construction Sites", the (Code).

Section 1.5 of the Code advises:

*"1.5 Design Average Recurrence Interval (ARI): Unless advised elsewhere in this code, works to capture sediment laden water will be designed to accommodate a design storm of the ARI 3 month storm (deemed to be 40% of the ARI one year event), however overflow/bypass arrangements are to be designed to accommodate an ARI 100 year storm without erosion, scouring or structural damage to erosion or sediment control devices, or re-mobilisation of previously captured sediment."*

In other words, subdivision erosion and sedimentation works are designed to capture a one in three Months storm.

The above relates to development consents issued after the adoption of the current Subdivision Manual (then DCP16) in 2003.

Early consents at Cobaki had less rigorous erosion and sediment control conditions although DAK99/1124 for 560 lots, issued 21 July 2000 included an earlier version of the "Code of Practice for Soil and Water Management on Construction Sites" which does not vary materially from the current version.

## **65 [QON-Cr K Milne] Erosion Event at Cobaki**

### **QUESTION ON NOTICE:**

There was a significant erosion event in May 2010 at the Cobaki development. Councillor K Milne asked:

Can Council provide an estimate of the amount of sediment that was discharged?

Regardless of the developer apparently meeting the conditions the original consent and agreeing to take action to prevent this in the future, is it not the developers responsibility, by law to prevent such discharges and why has no fines or prosecutions been pursued?

What would Council do if I dumped two truckloads of sediment into the very sick Cobaki Broadwater and into a highly significant salt marsh area?

The Director Planning and Regulation advised that as previously reported to the Tweed River Committee and in updates to Tweed Councillors, I can confirm that a significant runoff event occurred at Leda's Cobaki development site in May 2009. Given the time elapsed from this event, and of the site circumstances at that time, it is difficult to provide an estimate of the amount of sediment that was discharged specifically from this site.

In terms of compliance actions since the event, the original DA consents for Cobaki had only limited erosion/sedimentation control conditions, thereby making any fines or legal action a difficult prospect to defend. Nonetheless, following concerns raised by Council officers to Leda representatives about this event, Leda undertook significant work across the Cobaki site to control water quality leaving the site. Council officers have been regularly monitoring these actions in recent months, and as documented in a site inspection in early January, Leda had constructed a series of earth bunds, sedimentation ponds, silt traps and rubble drains, which should greatly enhance the management of the site in the shorter term, prior to greater standards of erosion/sedimentation control being implemented through the construction of the approved Part 3A construction works.

The NSW Department of Environment, Climate Change and Water has been kept informed of Leda's site control improvements, and have advised that they are satisfied with the commitment and progress of works to date.

In respect of your compliance hypothetical, in accordance with Council's Enforcement Policy and general Council practice, it is not appropriate to speculate on any possible compliance actions, until an inspection and investigation of any complaint was carried out.

## **CONFIDENTIAL COMMITTEE**

**104**

**Cr D Holdom  
Cr P Youngblutt**

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

The Motion was **Carried**

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

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

## REPORTS THROUGH GENERAL MANAGER IN COMMITTEE

### REPORTS FROM THE GENERAL MANAGER IN COMMITTEE

#### 1 [GM-CM] Crown Land - Tweed Heads and Murwillumbah

##### 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 7

That Council enter into negotiations with the Land and Property Management Authority to discuss other Crown Land parcels that are available for acquisition that would be of more value to Council to consider in exchange for Council land by acquisition in accordance with the information in the report.

The Motion was **Carried**

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

**AGAINST VOTE - Cr K Milne**

### REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

#### 2 [CNR-CM] Tree Preservation Order 2011

##### REASON FOR CONFIDENTIALITY:

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

- (e) information that would, if disclosed, prejudice the maintenance of law

##### C 8

That:

1. Council makes a Tree Preservation Order in accordance with Clause 54 of the Tweed Local Environmental Plan 2000 to require consent for vegetation clearing:
  - a) on lands identified in Figure 1 and

- b) of specified koala food trees within the Tweed Coast Koala Habitat Study Area (Attachment 1).
- 2. The definition of 'vegetation clearing' under the Tree Preservation Order is to be the same as the definition in clause 30 of Tweed Local Environmental Plan 2000.
- 3. Council makes the Tree Preservation Order prior to public release of the Tweed Coast Koala Habitat Study.
- 4. Council advises all affected landowners once the Tree Preservation Order has been brought into effect.
- 5. Council holds a workshop on the Tree Preservation Orders to discuss options for implementation of a single Tree Preservation Order under the forthcoming LEP.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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

#### **3 [EO-CM] Tweed Valley Way, South Murwillumbah - Road Widening for Car Parking and Embellishment Purposes**

#### **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 9**

That:

- 1. Council approves the dedication of an area of 3378m<sup>2</sup> being part of Lot 33 in DP 1128192 located at 474 Tweed Valley Way, South Murwillumbah for road widening where Council bears all legal and survey costs in consideration of the dedication of land by the landowner for the purpose of embellishment and car parking; and
- 2. Council accepts the donation of \$15,000 from the United Protestant Association of NSW Limited and authorises the embellishment works in accordance with the attached plan.
- 3. All documentation be executed under the Common Seal of Council.

The Motion was **Carried**

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

**a3 [EO-CM] Tweed Shire Council Sale of Land - Wollumbin Street**

**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 11**

That Council advises the Purchaser that Council:

1. Approves a further eight (8) week extension period within which the Purchaser enters into an Agreement for Lease with the proposed Lessee to expire on 14 April, 2011;
2. Will accept a payment of \$50,000 as a sign of good faith from the Purchaser as an additional deposit payable on or before 17 February 2011 that is non-refundable should the Purchaser rescind the Contract on or before 14 April 2011 due to the Purchaser not entering into an Agreement for Lease;
3. Approves entering into a lease with the Purchaser to allow commencement of the proposed development following the granting of consent for that proposed development on the subject land; and
4. Executes all necessary documentation under the Common Seal of Council.

The Motion was **Carried**

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

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

**4 [TCS-CM] National Broadband Network**

**REASON FOR CONFIDENTIALITY:**

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

- (e) information that would, if disclosed, prejudice the maintenance of law

**C 12**

That Council:

1. Endorses the submission to the House of Representatives Standing Committee on Infrastructure and Communications Inquiry examining the capacity of the National Broadband Network.
2. Authorises the General Manager, on behalf of Council, to forward Council's submission as contained in this report to the House of Representatives Standing Committee on Infrastructure and Communications Inquiry examining the capacity of the National Broadband Network.
3. As per the terms of reference of the Inquiry the submission is to be treated as confidential and not be disclosed to any other person until its publication has been authorised by the Committee at which time it will be published on the Committee's website.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**105**

**Cr D Holdom  
Cr P Youngblutt**

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

The Motion was **Carried**

***FOR VOTE - Unanimous***

There being no further business the Meeting terminated at 9.10pm.





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

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**Chairman**

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