



**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 March 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, Cr J van Lieshout and Cr P Youngblutt.

Also present were Mr Michael Rayner (General Manager), Mr Troy Green (Director Technology and Corporate Services), Mr Patrick Knight (Director Engineering and Operations), Mr Vince Connell (Director Planning and Regulation), Mr David Oxenham (Director Community and Natural Resources), Mr Mark Tickle (Economic and Corporate Planner) - until 4.20pm, Mr Neil Baldwin (Manager Corporate Governance/Public Officer) and Mrs Meredith Smith (Minutes Secretary).

## **ABORIGINAL STATEMENT**

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

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

## **PRAYER**

The meeting opened with a Prayer by Council's Chaplain, Father David Gilbey.

Let us pray - Lord God,

In the '*Lord's Prayer*', you command us:

to be both forgiving as to also seek the forgiveness of others;  
to receive, through justice, the needs of each day;  
and to not be found wanting, when put to the test, in our provision of such justice.

At the beginning of this Tweed Shire Council's Meeting, let us pray that the Lord may bless and guide your deliberations that you may be zealous in your deliberations both in fairness and justice seeking only to bring peace, hope and prosperity to all who make up the community of the Tweed Shire.

We ask this through Christ our Lord,

Amen.

## **CONFIRMATION OF MINUTES**

- 1 [CONMIN] Minutes of the Ordinary and Confidential Ordinary Council Meeting held Tuesday 15 February 2011 and Minutes of the Ordinary and Confidential Extraordinary Meeting held on 22 February 2011**

109

**Cr P Youngblutt  
Cr K Milne**

**RESOLVED** that the Minutes of the Ordinary and Confidential Council Meetings held Tuesday 15 February 2011 be adopted as a true and accurate record of proceedings of that meeting.

***FOR VOTE - Unanimous***

110

**Cr P Youngblutt  
Cr K Milne**

**RESOLVED** that the Minutes of the Extraordinary and Confidential Council Meeting held Tuesday 22 February 2011 be adopted as a true and accurate record of proceedings of that meeting.

***FOR VOTE - Unanimous***

## **APOLOGIES**

Nil.

## **DISCLOSURE OF INTEREST**

**Cr W Polglase** wishes to declare a pecuniary Interest in Item 15. The nature of the interest is as a Director of a company that manages the subject property.

### **Declaration Cobaki/Kings Forest - Cr K Milne**

**Cr K Milne** made a statement with regard to Items listed on the Agenda:

*I would like to make a statement to clarify my participation in relation to items 14, 33, 37 and 52 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 merits of each application.*

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

### **SUSPENSION OF STANDING ORDERS**

111

**Cr K Milne  
Cr B Longland**

**RESOLVED** that Standing Orders be suspended to deal with Item 50, 51 and 52 of the Agenda at the conclusion of consideration of the Items from the Director of Planning and Regulation, the reason being that there is public interest in Items 50, 51 and 52 with interested people attending the meeting (Public Gallery).

The Motion was **Carried**

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

### **SCHEDULE OF OUTSTANDING RESOLUTIONS**

**2 [SOR] Schedule of Outstanding Resolutions**

This item was received and noted.

## **MAYORAL MINUTE**

### **3 [MM] Mayoral Minute for the Period 02 February to 04 March 2011**

112

**Cr K Skinner**

**RESOLVED** that:-

1. The Mayoral Minute for the period 02 February to 04 March 2011 be received and noted.
2. The attendance of Councillors at nominated Conferences be authorised.

The Motion was **Carried**

***FOR VOTE - Unanimous***

113

**Cr P Youngblutt  
Cr B Longland**

**RESOLVED** that Council Skinner be authorised to attend the 2011 National General Assembly of Local Government, to be held in Canberra, 19-22 June 2011.

The Motion was **Carried**

***FOR VOTE - Unanimous***

114

**Cr K Skinner  
Cr P Youngblutt**

**RESOLVED** that Council Polglase be authorised to attend the 2011 National General Assembly of Local Government, to be held in Canberra, 19-22 June 2011.

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***

**4 [MM-CM] Mayoral Minute/Report - Constitutional Recognition of Local Government**

115

**Cr K Skinner**

**RESOLVED** that :

1. Tweed Shire Council declares its support for financial recognition of local government in the Australian Constitution so that the Federal Government has the power to fund local government directly and also for inclusion of local government in any new Preamble to the Constitution if one is proposed, and calls on all political parties to support a referendum by 2013 to change the Constitution to achieve this recognition.
2. Letters be forwarded to the Prime Minister, the Leader of the Opposition and the local Federal Member outlining Council's commitment to constitutional recognition.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**ORDINARY ITEMS FOR CONSIDERATION**

**REPORTS THROUGH THE GENERAL MANAGER**

**REPORTS FROM THE GENERAL MANAGER**

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

116

**Cr P Youngblutt  
Cr D Holdom**

**RESOLVED** that Council;

1. Implements a month by month lease with the Murwillumbah Aero Club from 11 April 2011 for a period of six (6) months pending outcomes of a development investigation report for the eastern tie down area

2. Continues a month by month lease arrangement with Scenic Rim Aviation for a period of six (6) months pending outcomes of a development investigation report for the eastern tie down area

The Motion was **Carried**

**FOR VOTE - Unanimous**

**6 [GM-CM] Regional Development Australia - Northern Rivers – Regional Plan**

117

**Cr K Skinner  
Cr W Polglase**

**RESOLVED** that Kingscliff Foreshore Master Plan be added as a specific recommendation for the broader region.

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**

118

**Cr K Milne  
Cr B Longland**

**PROPOSED** that reference to gas reserve development is deleted from the Natural Capital Regional Outcomes.

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**

119

**Cr K Milne  
Cr B Longland**

**RESOLVED** that protection of national iconic landscape and koala populations be included as a dot point under National Capital Regional Outcomes.

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**

120

**Cr W Polglase  
Cr P Youngblutt**

**RESOLVED** that Council endorses the General Manager to provide feedback on the Northern Rivers Regional Plan as amended in the body of this report in the Northern Rivers Regional Plan Feedback Template to Regional Development Australia – Northern Rivers for consideration at the combined Councillors and General Managers workshop on 25 March 2011 incorporating the following two resolutions (refer Minute Numbers 117 and 119):

- *that Kingscliff Foreshore Master Plan be added as a specific recommendation for the broader region.*
- *that protection of national iconic landscape and koala populations be included as a dot point under National Capital Regional Outcomes.*

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**

**7 [GM-CM] Second Round Applications for Financial Assistance  
2010/2011 - Festivals Policy**

121

**Cr W Polglase  
Cr P Youngblutt**

**RESOLVED** that:

1. Council allocates the Second Round Donations funding for 2010/2011 under the Festivals Policy as follows:

<u>Applicant</u>	<u>Amount</u>
Murwillumbah Festival of Performing Arts	\$2169
Gold Coast Malibu Club Inc	\$1000
Tweed River Agricultural Society	\$7000

Cabarita Beach Pottsville Beach Lions Inc	\$1000
Ukitopia Festival	\$2000
Tyalgum Festival Committee Inc	\$6000
Coolangatta-Mt Warning Dragon Boat Club Inc	\$1000
Chillingham Community Association	\$1000
<b>TOTAL</b>	<b>\$21,169</b>

2. Council contributes an additional \$1,000 to the Life Education Program through a budget adjustment as part of the March quarterly budget review.
3. ATTACHMENT 1 and 2 as CONFIDENTIAL in accordance with Section 10A(2)(a and d) of the Local Government Act 1993, because it contains:-
  - (a) *personnel matters concerning particular individuals (other than councillors)*
  - (d) *commercial information of a confidential nature that would, if disclosed:*
    - (i) *prejudice the commercial position of the person who supplied it, or*
    - (ii) *confer a commercial advantage on a competitor of the council, or*
    - (iii) *reveal a trade secret*

The Motion was **Carried**

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

122

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

**RESOLVED** that Council allocates \$10,000 towards an event in the Wharf Street frontage to Jack Evans Boatharbour to coincide with Cooly Rocks On and that discussions be held with Destination Tweed, Twin Towns Services Club and Cooly Rocks On to ensure an outcome that is acceptable to all parties.

**PROCEDURAL MOTION**

123

**Cr P Youngblutt**

**RESOLVED** that the Motion be put.

The Motion was **Carried**

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

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

The Motion at Minute No 122 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**

**8 [GM-CM] Second Round Applications for Financial Assistance 2010/2011 - Donations Policy**

124

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

**RESOLVED** that Council:

1. Allocates the Second Round Donations for 2010/2011 under the Donations Policy as follows:-

<u>Applicant</u>	<u>Amount</u>
Neighbourhood Watch Area 14	\$200
Twin Towns Friends Association Inc	\$2000
Tweed Shire Women's Service Inc	\$1256
Northern Region Life Saver Rescue Helicopter	\$2000
Tweed Palliative Support Inc	\$1800
Story Dogs Inc	\$400
<b>TOTAL</b>	<b>\$7656</b>

2. ATTACHMENT 1 as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains:-

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

The Motion was **Carried**

**FOR VOTE - Unanimous**

**9 [GM-CM] Destination Tweed Quarterly Performance Report – October to December 2010**

125

**Cr W Polglase  
Cr P Youngblutt**

**RESOLVED** that Council endorses:

1. The Destination Tweed Quarterly Report for the quarter October to December 2010.
2. ATTACHMENT 1 as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains:-
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret

The Motion was **Carried**

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

**REPORTS FROM THE DIRECTOR PLANNING AND REGULATION**

**10 [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**

126

**Cr W Polglase  
Cr P Youngblutt**

**RESOLVED** that 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.

The Motion was **Carried**

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

**AGAINST VOTE - Cr D Holdom, Cr J van Lieshout**

- 11            **[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**

127

**Cr W Polglase  
Cr P Youngblutt**

**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 approved subject to the following conditions:

**"DEFERRED COMMENCEMENT"**

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

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

**SCHEDULE "A"**

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

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

- C. A Habitat Restoration Plan relating to a specific site and approved by Council's General Manager or his delegate which demonstrates adequate replacement on a 10 to 1 (gained to lost) basis of the sub-mature Forest Red Gum (*Eucalyptus tereticornis*) and Pink Bloodwood (*Corymbia intermedia*) impacted by the proposed development. The Habitat Restoration Plan must include:
- a schedule and timing of works to be undertaken
  - written agreement from the owner of the agreed site to planting and/or restoration works on the land
  - a suitable protection mechanism on the land to ensure the trees are protected in perpetuity
  - a legally binding commitment by the consent holder to funding and/or undertaking the proposed works
  - a statement of commitment by the consent holder that the works will be completed by qualified and experienced bush regeneration personnel.
- D. A legally binding commitment by the developer to funding and/or undertaking a sufficient component of the works as detailed within the approved Plan and agreed by Council to offset the loss of Swamp Oak Floodplain Forest. The approved plan is the *Amended Rehabilitation/Restoration Plan for Elsie Street, Banora Point: Lot 1 DP285117* prepared by Planit Consulting dated March 2010.

**SCHEDULE B**

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

**GENERAL**

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

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

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

[GEN0125]

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

[GEN0135]

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

[GENNS01]

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

- The applicant must comply with Part 6 of the National Parks and Wildlife Act 1974 (NPW Act) as amended, prior to commencing or during any ground disturbance or development works which is the subject of the development application.
- In the event that surface disturbance identifies a new Aboriginal site, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and Aboriginal community representatives must be contacted to determine the significance of the object(s). The site is to be registered in the AHIMS (managed by DECCW) and the management outcome for the site included in the information provided to the AHIMS. The proponent will consult with the Aboriginal community representatives and the archaeologist to develop management strategies for all objects/sites, which will require DECCW approval prior to recommencing works.
- An application for a Care and Control Permit must be lodged along with any application for any Aboriginal objects that are located and moved in accordance with the NPW Act. The applicant is to consult with all of the registered Aboriginal stakeholders identified in the consultation process and is to provide evidence of the support with any application for a care and control permit.
- If human remains are located in the event that surface disturbance occurs, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police are to be contacted immediately. No action is to be undertaken until NSW Police provide written notification to the proponent. If the skeletal remains are identified as Aboriginal, the proponent must contact DECCW Enviroline 131555 and no works are to continue here until DECCW provide written notification to the proponent.
- The applicant must continue to consult with and involve all Aboriginal representatives for the duration of the project, in relation to the ongoing management of the Aboriginal cultural heritage matters associated with this project. Evidence of this consultation must be collated and provided to the consent authority upon request.
- The applicant shall provide fair and reasonable opportunities for the local Aboriginal community to monitor the initial earth moving/construction activities associated with this project.

[GENNS02]

## PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works as set out in Council's fees and charges at the time of payment.

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

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

[PCC0275]

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

[PCC0285]

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

[PCC0485]

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

[PCC0865]

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

### Intersection Works

- (a) The proposed intersection with Chinderah Drive and the Ozone Street upgrade will be required to be designed in accordance Ausroads and drawing no. Sk 7 prepared by Cozens Regan Williams Prove titled 'proposed industrial subdivision ~ intersection detail', dated 7 October 2010.

- (b) A 1.2m reinforced concrete footpath 100mm thick on compacted road base is to be constructed along the full length of the proposed road located in the Ozone Street reserve.

#### Road Works

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

#### Stormwater

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

#### Sewer

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

#### General

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

[PCC0875]

11. Prior to the issue of a Construction Certificate for civil works the following detail in accordance with Councils Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.
- (a) copies of compliance certificates relied upon
  - (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
    - earthworks
    - roadworks/furnishings
    - stormwater drainage
    - water supply works
    - sewerage works
    - landscaping works
    - sedimentation and erosion management plans
    - location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure)

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

[PCC0985]

12. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 – Stormwater Quality*.
  - (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 – Stormwater Quality.
  - (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management.

[PCC1105]

13. Erosion and Sediment Control shall be provided in accordance with the following:
- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 – Stormwater Quality*.

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

[PCC1155]

- 14. A detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate. The plan shall be compiled in collaboration with the owners of adjoining Lot 109 DP 755701 and submitted plan shall include landscaping along both sides of the acoustic fence (i.e.: within Lot 12 DP 830659 and adjoining Lot 109 DP 755701) for the entire length of the road reserve.

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

[PCCNS01]

#### PRIOR TO COMMENCEMENT OF WORK

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

[PCW0005]

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

[PCW0375]

- 17. Civil work in accordance with a development consent must not be commenced until:-
  - (a) a construction certificate for the civil work has been issued in accordance with Councils Development Construction Specification C101 by:
    - (i) the consent authority, or
    - (ii) an accredited certifier, and
  - (b) the person having the benefit of the development consent:
    - (i) has appointed a principal certifying authority,



- (ii) has appointed a Subdivision Works Accredited Certifier (SWAC) accredited in accordance with Tweed Shire Council DCP Part A5 – Subdivision Manual, Appendix C with accreditation in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the SWAC shall possess accreditation in the following categories:

C4: Accredited Certifier – Stormwater management facilities construction compliance

C6: Accredited Certifier – Subdivision road and drainage construction compliance

The SWAC shall provide documentary evidence to Council demonstrating current accreditation with the Building Professionals Board prior to approval and issue of any Construction Certificate, and

- (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment,

- (iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and

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

[PCW0815]

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

[PCW0835]

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

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

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

[PCW0985]

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

[PCWNS01]

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

[PCWNS02]

#### DURING CONSTRUCTION

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

[DUR0005]

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

- A. Short Term Period - 4 weeks.

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

- B. Long term period - the duration.

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

[DUR0215]

25. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".

The earthworks shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to the Principal Certifying Authority upon completion.

[DUR0795]

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

[DUR0815]

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

[DUR0985]

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

[DUR0995]

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

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

[DUR1005]

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

[DUR1045]

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

[DUR1795]

32. Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval and demonstrating.

- (a) That the pavement has been designed in accordance with Tweed Shire Councils Development Design Specification, D2.

- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.
- (c) That site fill areas have been compacted to the specified standard.
- (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR1805]

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

- (a) That the pavement layers have been compacted in accordance with Councils Development Design and Construction Specifications.
- (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.

[DUR1825]

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

[DUR1875]

35. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, Appendix D. Inspection fees are based on the rates contained in Council's current Fees and Charges:-

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal
- (g) Pathways, footways, bikeways - formwork/reinforcement
- (h) Final inspections - on maintenance
- (i) Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures
- (g) Drainage channels
- (h) Final inspection - on maintenance
- (i) Off maintenance

Council's role is limited to the above mandatory inspections and does NOT include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR1895]

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

[DUR2015]

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

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

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

[DUR2035]

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

[DUR2285]

39. All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording in accordance with Councils Development Design and Construction Specifications.

[DUR2355]

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

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

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

[DUR2375]

41. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.

[DUR2425]

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

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

[DURNS01]

#### PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

[PSC0005]

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

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

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

Sewer Kingscliff:            1 ET @ \$5295 per ET            \$5295

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

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

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

[PSC0165]

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

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

[PSC0215]

47. A bond shall be lodged prior to the issue of the subdivision certificate to ensure that the landscaping is maintained by the developer for a period of 6 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.

[PSC0235]

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

[PSC0725]

49. Prior to the issue of a Subdivision Certificate, Work as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design Specification, D13 - Engineering Plans.

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

- (a) all drainage lines, sewer lines, services and structures are wholly contained within the relevant easement created by the subdivision;
- (b) the plans accurately reflect the Work as Executed.

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

[PSC0735]

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

[PSC0825]

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

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

#### **TERMS OF PUBLIC POSITIVE COVENANT**

1. *Pressure sewerage reticulation infrastructure is to be constructed within the land referred to herein and such infrastructure will comprise a pump station, valve pit, control panel and associated pipelines excluding gravity house connections and plumbing,*
2. *Such infrastructure is to be supplied by Tweed Shire Council at commencement of construction of a dwelling on the land referred to herein.*
3. *All costs in relation to the installation of the pressure sewer reticulation infrastructure within the land referred to herein will be borne by Tweed Shire Council.*
4. *The control panel for the pumping station is to be wired into the household switchboard by a registered electrician and all electricity to operate the control panel and pump station shall be supplied from the household switchboard. All costs in relation to the running of the pressure sewerage reticulation are to be borne by the registered proprietor.*
5. *The pressure sewer infrastructure will at all times remain the property of Tweed Shire Council to be inspected, serviced, repaired and maintained in good working order only by Tweed Shire Council*
6. *Tweed Shire Council shall have the right to enter upon the land referred to herein with or without equipment, at all reasonable times to inspect, construct, repair, service and maintain in good working order all pressure sewerage reticulation infrastructure in or upon the said land pursuant to “Power of Entry” provisions under sections 191 and 191A of the NSW Local Government Act, 1993. This right to enter is restricted to the land in which the pressure sewerage infrastructure is placed for the time being and includes any points of egress or ingress to or from the said land.*



7. *The registered proprietor of the land referred to herein shall not construct any type of development, including external buildings, swimming pools or permanent structures which may interfere with the sewerage reticulation infrastructure, or impede access to any part of the sewerage reticulation infrastructure for the purposes of repair, maintenance and service.*
8. *If at any time it becomes necessary to relocate any part of the sewerage reticulation infrastructure for the purposes of construction of external buildings, swimming pools or building extensions and/or modifications Tweed Shire Council will not object to the relocation of the existing sewer pump station or associated pipeline providing that the registered proprietor makes the necessary application to Tweed Shire Council as the consent authority to modify the existing sewerage reticulation infrastructure and upon the registered proprietor obtaining development consent to do so. The registered proprietor will bear all costs in relation to the application and the re-location which is to be carried out by Tweed Shire Council.*
9. *The registered proprietor shall be responsible for notifying Tweed Shire Council when maintenance, repair, relocation or service is necessary on the sewerage reticulation infrastructure.*
10. *Should any part of the sewerage reticulation infrastructure be damaged by the registered proprietor or by any person who is a servant, workman, tenant, invitee, employee, or agent of the registered proprietor Tweed Shire Council will repair the damage at the cost of the registered proprietor.*
11. *The registered proprietor shall indemnify Tweed Shire Council and any adjoining landowners against any damage and injury to their land, property or person arising from the failure of any component of the sewerage reticulation infrastructure due to the negligent use or misuse of the sewerage reticulation system by the registered proprietor or any person who is a servant, workman, tenant, invitee, employee or agent of the registered proprietor.*
12. *Tweed Shire Council shall indemnify the registered proprietor against all damage and injury to property and person (including any damage to the land referred to herein and any land adjacent to the land referred to herein) arising from the failure of any component of the sewerage reticulation infrastructure and its construction, inspection, repair, service and maintenance and or in entering upon and occupying the subject property for such purposes.*
13. *Any reference to Tweed Shire Council, excepting as consent authority, means its employees, agents, contractors, servants.”*

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

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

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

[PSC0835]

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

[PSC0855]

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

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.

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

[PSC0885]

54. Prior to the application for a Subdivision Certificate a Compliance Certificate or Certificates shall be obtained from Council OR an accredited certifier for the following:-

- (a) Compliance Certificate - Roads
- (b) Compliance Certificate - Water Reticulation
- (c) Compliance Certificate - Sewerage Reticulation
- (d) Compliance Certificate - Sewerage Pump Station
- (e) Compliance Certificate - Drainage

Note:

1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual and Councils Development Design and Construction Specifications.
2. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[PSC0915]

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

[PSC0925]

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

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

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

[PSC1065]

57. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to all lots within the subdivision in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications and the Construction Certificate approval.

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

[PSC1115]

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

[PSC1165]

59. Electricity

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

- (b) The reticulation includes the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

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

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

[PSC1185]

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

[PSCNS01]

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

[PSCNS02]

62. A permit under s198-202 of the Fisheries Management Act 1994 for dredge and reclamation activities must be sought prior to commencement of any dredging or reclamation activities within the drainage channel.

63. A permit under s205 of the Fisheries Management Act 1994 for harm to marine vegetation (seagrass, mangroves, kelp) must be sought prior to any activities which could result in harm to marine vegetation.

64. Before commencing any works or using any existing works for the purpose of Temporary Dewatering for Construction Purposes, a Controlled Activity Approval under the Water Management Act 2000 must be obtained from the Department of Environment, Climate Change and Water.

The Motion was **Carried**

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

**AGAINST VOTE - Cr J van Lieshout, Cr D Holdom**

- 12 [PR-CM] Development Application DA10/0552 and Section 96 Application DA09/0006.01 – Lot 12, 830659, Chinderah Road, and DP Lot 1 DP102255, 16-18 Ozone Street, Chinderah - Notice of Class1 Appeals**

128

**Cr W Polglase  
Cr D Holdom**

**RESOLVED** that following determination of separate business paper items relating to DA10/552 and DA09/0006.01 (in respect of parcels of land at Ozone Street and Chinderah Road, Chinderah), Council engages its solicitors to represent Council at the first call over hearing for the Class 1 Land and Environment Court appeals relating to these applications.

***FOR VOTE - Unanimous***

- 13 [PR-CM] Development Application DA08/0984.09 for an amendment to Development Consent DA09/0984 for demolition of existing structures & construction of multi dwelling housing comprising 28 units and carparking at Lot 1 DP 1151857, No. 204 Byangum Road Mur**

129

**Cr W Polglase  
Cr P Youngblutt**

**RESOLVED** that:

- A. Development Application DA08/0984.09 for an amendment to Development Consent DA09/0984 for demolition of existing structures & construction of multi dwelling housing comprising 28 units and carparking at Lot 1 DP 1151857, No. 204 Byangum Road Murwillumbah be refused for the following reasons: -
1. The proposed modification is contrary to Council's adopted Fees and Charges document.
  2. The proposed modification is not considered to be in the public interest.
- B. Council defends the matter, in the event that the applicant lodges an appeal in the NSW Land and Environment Court.

130

**AMENDMENT**

**Cr K Milne  
Cr B Longland**

**PROPOSED** that this item be deferred to allow a workshop to be scheduled.

The Amendment was **Lost**

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

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

The Motion was **Carried** (Minute No 129 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**

**14 [PR-CM] Cobaki Lakes Concept Plan – Residential Community  
Development –Repeal of Tweed Development Control Plan Section  
B7 – Cobaki Lakes**

131

**Cr B Longland  
Cr W Polglase**

**RESOLVED** that:-

1. Council endorses the repeal of Tweed Development Control Plan Section B7 (Cobaki Lakes).
2. Pursuant to the *Environmental Planning and Assessment Regulation 2000*, sub reg 23(1) and (2), a public notice in the Tweed Link detailing Council's intention and reason for the repeal of Tweed Development Control Plan Section B7 Cobaki Lakes is to be advertised for a period not less than 14 days.
3. Pursuant to the *Environmental Planning and Assessment Regulation 2000*, sub reg 23(2) and (3) a public notice of repeal of Tweed Development Control Plan Section B7 Cobaki Lakes is to be advertised in the Tweed Link following a minimum 14 day period of the prior notice of intention to repeal.

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**

**15 [PR-CM] Land and Environment Court Proceedings No. 10857 of 2010 – Tweed Shire Council ats Baclon Pty Ltd - Development Application DA09/0727 for additions to existing manufactured home estate (Noble Lakeside Park) including 45 new manufactured home site**

Cr W Polglase declared a pecuniary Interest in this item, left the Chamber at 05:40 PM and took no part in the discussion or voting. The nature of the interest is as Cr Polglase is a Director of a company that manages the subject property.

132

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

**RESOLVED** that:

1. ATTACHMENT 1 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. Council notes that the proceedings of No. 10857 of 2010 in the Land and Environment Court relating to Development Application DA09/0727 for additions to existing manufactured home estate (Noble Lakeside Park) has been discontinued.

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**

**RETURN TO MEETING**

Cr W Polglase has returned from temporary absence at 05:48 PM

**16 [PR-CM] Pottsville Employment Lands - Rezoning Application**

133

**Cr P Youngblutt  
Cr J van Lieshout**

**RESOLVED** that:

1. Council endorses the preparation of a planning proposal for the rezoning of the site for industrial and environmental protection purposes consistent with Council's resolutions of 17 August 2010;
2. The proponent be requested to confirm their commitment to the provision of a private waste water system by entering into a Voluntary Planning Agreement, to be prepared by Council's Solicitors at the proponents' cost, pertaining to their commitment to provide a stand-alone private wastewater disposal utility scheme and the obtainment of a licence under the Water Industry Competition Act 2006 (WIC Act) administered by the Independent Pricing and Regulatory Tribunal (IPART);
3. Council compliance and enforcement officers implement a protocol for the reporting of alleged damage of Aboriginal artefacts to the Department of Environment, Climate Change and Water consistent with a Notice of Motion endorsed at the Council meeting of 16 March 2010, which requires early notification of any alleged damage of Aboriginal artefacts;
4. The General Manager seeks a high level meeting with the Department of Environment, Climate Change and Water regarding a more proactive involvement of the Department in the investigation, enforcement and management of alleged damage of Aboriginal artefacts, and native vegetation within the Tweed.

**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**



**17 [PR-CM] Results of the Department of Planning Local Development Performance Monitoring Report 2009/10**

Cr P Youngblutt left the meeting at 05:55 PM

134

**Cr W Polglase  
Cr B Longland**

**RESOLVED** that the report on the results of the Department of Planning Local Development Performance Monitoring Report 2009/10 be received and noted.

**RETURN TO MEETING**

Cr P Youngblutt has returned from temporary absence at 05:56 PM

The Motion was **Carried**

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

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

135

**Cr W Polglase  
Cr J van Lieshout**

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

The Motion was **Carried**

***FOR VOTE - Unanimous***

**ADJOURNMENT OF MEETING**

Adjournment for dinner at 6.30pm.

**RESUMPTION OF MEETING**

The Meeting resumed at 7.30pm.

**50 [NOM-Cr K Milne] Public Land**

136

**Cr K Milne  
Cr B Longland**

**PROPOSED** that Council establishes a community advisory committee to assist in decision making for Public land issues.

**TEMPORARY ABSENCE FROM MEETING**

Cr K Skinner left the meeting at 06:00 PM  
Cr B Longland chaired the meeting.

**RETURN TO MEETING**

Cr K Skinner has returned from temporary absence at 06:01 PM and resumed the chair.

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**

**51 [NOM-Cr K Milne] Water Sharing Plan**

137

**Cr K Milne  
Cr B Longland**

**PROPOSED** that Council:

1. Ceases all expenditure on pre approval processes, etc for either dam option until advice is received from the Office of Water in response to Council's objection.
2. Seeks advice from the leaders of the Coalition parties, Labor and the Greens on their position on which water supply option they prefer being Byrrill Creek, Clarrie Hall or water conservation.

The Motion was **Lost**

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

**52 [NOM-Cr K Milne] Cobaki Submission to Joint Regional Planning Panel**

138

**Cr K Milne  
Cr B Longland**

**PROPOSED** that the Mayor, on behalf of the elected Council, makes a submission on the Cobaki Development to the Joint Regional Planning Panel requesting further consideration in relation to:

1. The significance of this site on the potential for the only viable Recovery area for Koalas in the Northern Koala Plan of Management zone, (this zone being the coastal zone north of the Tweed River identified in the Koala Habitat Study by Dr Steven Phillips 2010), and the significance of this site for recovery potential for other threatened species.
2. The significance of this site for the Federally recognised National Iconic Landscape, the numerous reports on the geological and biodiversity significance of the MacPherson Ranges Biodiversity hotspot, the NSW / QLD State Border values, and the significance of this Border Range for social, cultural heritage and tourism values.
3. Deferment of this determination until the above matters have been comprehensively addressed and community consultation, especially in regard to the level of desire for a Northern Koala Recovery area, has been comprehensively undertaken.

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**

139

**Cr P Youngblutt  
Cr D Holdom**

**RESOLVED** that Standing Orders continue to be suspended to deal with Item 23 of the Agenda.

**FOR VOTE - Unanimous**

**23 [CNR-CM] Burringbar/Mooball Sewerage Scheme and Tyalgum Water Treatment Plant Funding Under New South Wales Country Towns Water Supply and Sewerage Program**

140

**Cr D Holdom  
Cr K Milne**

**RESOLVED** that Council:

1. Delays award of Contracts EC2010-069 and EC2010-062 for construction of the Burringbar/Mooball Sewerage Scheme until 19 July 2011 at which time assessment of the Country Towns Water Supply and Sewerage Program funding application will be complete and availability of future funding will be known.
2. Writes to the Minister to advise of status and that a decision on grant funding is required by 7 July 2011.

141

**AMENDMENT**

**Cr W Polglase  
Cr P Youngblutt**

**PROPOSED** that:-

1. Council officers bring forward a report for the April meeting determining the preferred tenderer for Contracts EC2010-069 and EC2010-062 to commence the works for the Burringbar/Mooball Sewerage Scheme.
2. Council writes to members of Parliament seeking their support for funding for this project.

The Amendment was **Lost**

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

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

The Motion was **Carried** (Minute No 140 refers)

**FOR VOTE - Voting - Unanimous**

142

**Cr P Youngblutt**  
**Cr B Longland**

**RESOLVED** that Standing Orders be resumed.

***FOR VOTE - Unanimous***

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

### **19 [CNR-CM] Oxley Cove Canal Estate Flood Debris Removal Policy**

143

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

**RESOLVED** that Council adopts the proposed final Oxley Cove Canal Estate Flood Debris Removal Policy.

### **TEMPORARY ABSENCE FROM MEETING**

Cr K Skinner left the meeting at 08:00 PM  
Cr B Longland chaired the meeting.

### **RETURN TO MEETING**

Cr K Skinner has returned from temporary absence at 08:01 PM and resumed the chair.

The Motion was **Carried**

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

**20 [CNR-CM] Northern Rivers Catchment Management Authority Caring for our Coast Project Grant – Restoring Tweed Coast Littoral Rainforest Remnants between Fingal Head and Wooyung**

144

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that:

1. Council accepts the \$35,000 financial assistance from the Northern Rivers Catchment Management Authority for the implementation of the project “Restoring Tweed Coast Littoral Rainforest Remnants between Fingal Head and Wooyung” and votes the funds accordingly.
2. All documentation be completed under the common seal of Council.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**21 [CNR-CM] NSW Environmental Trust Grant - Protection and Restoration of the Pottsville Wetlands**

145

**Cr D Holdom  
Cr K Milne**

**RESOLVED** that:

1. Council accepts the \$100,000 financial assistance from the NSW Environmental Trust for the implementation of the project “Protection and Restoration of the Pottsville Wetlands” and votes the funds accordingly.
2. All documentation be completed under the common seal of Council.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**22 [CNR-CM] Cudgen Creek Boardwalk – Licence Agreement with Land and Property Management Authority over Cudgen Creek**

146

**Cr D Holdom  
Cr B Longland**

**RESOLVED** that:

1. Council approves entering into a Licence Agreement with the Land and Property Management Authority for a term of 20 years for the Cudgen Creek boardwalk.
2. Council approves, in principle, entering into short-term sub-licence agreements with landowners whose waterfront structures are connected to the boardwalk subject to the review of the Coastal Estuaries Management Plan.
3. All documentation is executed under the Common Seal of Council.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**23 [CNR-CM] Burringbar/Mooball Sewerage Scheme and Tyalgum Water Treatment Plant Funding Under New South Wales Country Towns Water Supply and Sewerage Program**

This item was dealt with earlier in the meeting at Minute No 140.

**24 [CNR-CM] Water Supply Demand Management Strategy Implementation Plan**

147

**Cr D Holdom  
Cr B Longland**

**PROPOSED** that:

1. Council adopts the three year Implementation Plan for the Demand Management Strategy as outlined within the report.
2. Staff monitor the Implementation Plan and report to Council on an annual basis.

148

**AMENDMENT**

**Cr K Milne  
Cr B Longland**

Cr D Holdom raised concerns in relation to Section 6.1 of the Code of Conduct as it relates to condition 3 of Item 24 of the minutes.

**RESOLVED** that:

1. Council adopts the three year Implementation Plan for the Demand Management Strategy as outlined within the report.
2. Staff monitors the Implementation Plan and report to Council on an annual basis.
3. Council continues to proactively lobby state government and developers for improvements to water conservation legislation and BASIX requirements.
4. Council continues to proactively investigate further water conservation options.

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 W Polglase, Cr D Holdom**

The Amendment on becoming the Motion was **Carried** - (Minute No 148 refers)

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

**25 [CNR-CM] EC2010-135 Removal and Disposal/Reuse of Biosolids from Banora Point and Kingscliff Wastewater Treatment Plants**

149

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that:

1. Council accepts the Schedule of Rates offer for EC2010-135 Removal and Disposal/Reuse of Biosolids from Banora Point and Kingscliff Wastewater Treatment Plants for a period of two years from Arkwood (Gloucester) Pty Ltd trading as Arkwood Organic Recycling.



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

The Motion was **Carried**

***FOR VOTE - Unanimous***

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

150

**Cr D Holdom  
Cr J van Lieshout**

**RESOLVED** that with reference to the request from Twin Towns Friends Association, Council provides the Tweed Heads Civic Centre free of charge for the Seniors Week Rock and Roll Exhibition and light luncheon on 23 March 2011, and that Council's support is recognised with the following acknowledgement "This programme has been supported by Tweed Shire Council".

The Motion was **Carried**

***FOR VOTE - Unanimous***

**27 [CNR-CM] NightLink Bus and TaxiLink Services**

151

**Cr D Holdom  
Cr B Longland**

**RESOLVED** that Council:

1. Ceases to fund the TaxiLink service provided from Kingscliff along the Tweed Coast ending at Pottsville from 27 March 2011, at the end of the Malfunction surfing event at Kingscliff.
2. Continues to negotiate collaborative arrangements with business organisations towards providing transport serving night time entertainment venues, including a request to Surfside Buslines to improve the early evening scheduled bus services.
3. Retains the allocated budget of \$15,000 to TaxiLink to fund changes to the after hours transport system.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**28 [CNR-CM] EC2011-013 - Pottsville Beach Neighbourhood Centre**

152

**Cr D Holdom  
Cr J van Lieshout**

**RESOLVED** that this report be dealt with in conjunction with the late report to be tabled at the Council Meeting.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**29 [CNR-CM] Acceptance of Arts NSW Funding for Tweed River Art Gallery**

153

**Cr D Holdom  
Cr J van Lieshout**

**RESOLVED** that Council:

1. Accepts the grant offer totalling \$50,000 per annum from Arts NSW 2011 Triennial Arts Funding Program.
2. Votes the expenditure as part of Council's budget allocation for the Art Gallery operations for the 2011/12 – 2013/14 budget period.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**30 [CNR-CM] 2011 Hong Kong Art Fair**

154

**Cr D Holdom  
Cr J van Lieshout**

**RESOLVED** that Council approves the attendance of the Art Gallery Director, Susi Muddiman, at the 2011 Hong Kong Art Fair being held 26-29 May 2011.

***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***

**TEMPORARY ABSENCE FROM MEETING**

Cr B Longland left the meeting at 08:17 PM

**31 [CNR-CM] Entomological Control Report for period November 2010 to February 2011**

**RETURN TO MEETING**

Cr B Longland has returned from temporary absence at 08:22 PM

155

**Cr D Holdom**  
**Cr J van Lieshout**

**RESOLVED** that Council receives and notes the Entomological Control Report for the period November 2010 to February 2011.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**a31 [CNR-CM] EC2011-013 Pottsville Beach Neighbourhood Centre**

**LATE ITEM**

156

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

**RESOLVED** that Item a31 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

***FOR VOTE - Unanimous***

157

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

**RESOLVED** that:

1. Council accepts the tender from Anthony Adams Building Services P/L for EC2011-013 Pottsville Beach Neighbourhood Centre to the value of \$1,079,750 exclusive of GST.
2. Council accepts the revised project budget listed in this report.
3. Council votes the expenditure of \$20,000 from the Access Reserve.
4. Council considers the allocation of an additional \$45,000 to fund the project in the March quarterly budget review.

5. The General Manager be given delegated authority to approve variations up to \$150,000 (inclusive of GST) above the initial tender price and those variations reported to Council following completion of works.
6. ATTACHMENT B is CONFIDENTIAL in accordance with Section 10A(2)(c) and Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret

The Motion was **Carried**

***FOR VOTE - Unanimous***

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

### **32 [EO-CM] West End Street, Murwillumbah - Land Acquisition for Road**

158

**Cr P Youngblutt**  
**Cr B Longland**

**RESOLVED** that:

1. Council approves the acquisition of Lot 1 DP 1160914 for public road purposes under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act, 1993 and the making of the necessary application to the Minister and/or Governor;
2. Lot 1 in DP 1160914 be dedicated as road following gazettal of the acquisition; and
3. All necessary documentation be executed under the Common Seal of Council.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**33 [EO-CM] Naming of Council Bridges - Kingscliff and Kings Forest**

159

**Cr P Youngblutt**

**Cr D Holdom**

**RESOLVED** that:

1. Council adopts the name of the bridge over Cudgen Creek, at the southern end of Sutherland Street, Kingscliff as "Cudgen Creek Bridge" and names the bridge on Tweed Coast Road, north of Dianella Drive at Kings Forest as "Old Bogangar Bridge"; and
2. The naming of the bridges be gazetted under the provisions of the Roads (General) Regulation, 1994 and the Roads Act, 1993.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**34 [EO-CM] Modification of Restriction on the Use of Land - Change of Tourist Accommodation to Flexible Multi Dwelling Housing Units or Tourist Accommodation Units - Tweed Ultima - Stuart Street, Tweed Heads**

160

**Cr P Youngblutt**

**Cr D Holdom**

**RESOLVED** that:

1. That Council, pursuant to development consent DA08/0907.06, approves the modification of Restriction on Use ninthly referred to in SP79995 burdening Lots 51 and 129 in SP 79995 to now show that Lots 51 and 129 are burdened by the amended Restriction on Use of the Land to read:

*"a Lot burdened must not be used for any purpose other than for the purpose of multi-dwelling housing units";*

2. That Council, pursuant to development consent DA08/0907.06, approves the modification of Restriction on Use ninthly referred to in SP79995 burdening Lots 85 and 92 in SP 79995 to now show that Lots 85 and 92 are burdened by an amended Restriction on Use of the Land to read:

*“a Lot burdened must not be used for any purpose other than for the purpose of tourist accommodation”*; and

3. All necessary 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**

**35 [EO-CM] Memorial Park - Vicinity of Byangum Bridge**

161

**Cr P Youngblutt**  
**Cr B Longland**

**RESOLVED** that the proposed Byangum Memorial Park estimated to cost \$66,000 with recurrent costs of \$5,000 be referred for consideration along with other priorities for inclusion in the 2011/12 budget.

The Motion was **Carried**

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

**36 [EO-CM] Adoption of Amended Section 94 Plan No. 19 - Casuarina Beach Kings Forest (Version 5)**

162

**Cr P Youngblutt**  
**Cr B Longland**

**RESOLVED** that Council

1. Approves Section 94 Plan No. 19 – Casuarina Beach/Kings Forest (Version 5) to repeal and replace the existing version in accordance

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

2. Gives Public Notice in the Tweed Link of Council's decision specifying that the amended Version 5 of the Plan (CP 19) comes into effect on the date of the notice.

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**

**37 [EO-CM] Boyd Street Entry to Cobaki - Potoroo**

163

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

**RESOLVED** that Council receives and notes the report on Boyd Street Entry to Cobaki - Potoroo.

**TEMPORARY ABSENCE FROM MEETING**

Cr D Holdom left the meeting at 08:39 PM

Cr B Longland left the meeting at 08:39 PM

**RETURN TO MEETING**

Cr D Holdom has returned from temporary absence at 08:40 PM

Cr B Longland has returned from temporary absence at 08:41 PM

The Motion was **Carried**

**FOR VOTE - Unanimous**

**38 [EO-CM] Supply of Retail Electricity to Small and Large Sites**

164

**Cr P Youngblutt**  
**Cr B Longland**



**RESOLVED** that this report be dealt with in conjunction with the late reports, EC2011-005 Supply of Retail Electricity to Small Sites and EC2011-006 Supply of Retail Electricity to Large Sites, both to be tabled at the Council meeting.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**a38 [EO-CM] EC 2011-006 Supply of Retail Electricity for Large Sites**

**LATE ITEM**

165

**Cr P Youngblutt  
Cr B Longland**

**RESOLVED** that Item a38 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

**FOR VOTE - Unanimous**

166

**Cr P Youngblutt  
Cr B Longland**

**RESOLVED** that:

1. Council awards Contract EC2011-006 for the Supply of Retail Electricity for Large Sites (those consuming more than 160MWh per year) to Momentum Energy Pty Ltd for a three (3) year contract period commencing on 1 July 2011 (or the first meter read after that date) and finishing on 30 June 2014 (or the first meter read after that date).
2. Council delegates the General Manager to sign the Contract Acceptance before close of business on 16 March 2011 and the subsequent Retail Electricity Supply Agreement with Momentum Energy Pty Ltd.
3. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) and 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-

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

The Motion was **Carried**

***FOR VOTE - Unanimous***

**b38 [EO-CM] EC2011-005 Supply of Retail Electricity for Small Sites**

**LATE ITEM**

167

**Cr P Youngblutt  
Cr B Longland**

**RESOLVED** that Item b38 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

***FOR VOTE - Unanimous***

168

**Cr P Youngblutt  
Cr B Longland**

**RESOLVED** that:

1. Council, in accordance with Clause 178 (1)(b) of the Local Government (General) Regulations 2005, declines to accept any of the tenders for EC2011-005 Supply of Retail Electricity for Small Sites.
2. Council, in accordance with Section 55(3) of the Local Government Act 1993 and Clause 163(1A) of the Local Government (General) Regulation 2005, endorses participation in the Local Government Procurement tender process for Electricity for Small (tariff) Sites (contracts in place prior to 1 July 2011).
3. The proposal from Entire Network Solutions be provided to the Revolving Energy Fund Management Team to investigate possible

implementation of carbon sensitive electricity generating devices which could assist Councils carbon footprint reduction goals.

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

The Motion was **Carried**

**FOR VOTE - Unanimous**

**39 [EO-CM] EC2010-217 Supply of One (1) Backhoe Loader Unit**

169

**Cr B Longland  
Cr P Youngblutt**

**RESOLVED** that:

1. The tender from WestTrac CAT Pty Ltd be accepted to the value of \$190,723 exclusive of GST.
2. The General Manager be given delegated authority to approve variations up to \$150,000 (inclusive of GST) above the initial tender price and those variations reported to Council following completion of works.
3. ATTACHMENT A be treated as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

The Motion was **Carried**

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**FOR VOTE - Unanimous**

**40 [EO-CM] EC2011-009 Supply and Delivery of Guardrail Components**

170

**Cr P Youngblutt  
Cr B Longland**

**RESOLVED** that:

1. The tender from Australian Construction Products be accepted to the value of \$190,743.96 inclusive of GST.
2. The General Manager be given delegated authority to approve variations up to \$150,000 (inclusive of GST) above the initial tender price and those variations reported to Council following completion of works.
3. The ATTACHMENT A be treated as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**41 [EO-CM] EC2009-143 Progress and Expenditure Report on Jack Evans Boat Harbour foreshore Embellishment Works**

171

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that the progress and expenditure of the Jack Evans Boat Harbour Foreshore Embellishment Works project as at 31 January 2011 be endorsed.

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**

**42 [EO-CM] EC2010-200 Mobile Crushing and Screening of Aggregates**

172

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

**RESOLVED** that this report be deferred to the April Council meeting.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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

**43 [TCS-CM] Draft Procurement Policy Version 1.3**

173

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

**RESOLVED** that Council, in accordance with Section 161(b) of the Local Government Act 1993, adopts the Draft Procurement Policy (Version 1.3).

The Motion was **Carried**

**FOR VOTE - Unanimous**

**44 [TCS-CM] Draft Code of Conduct Policy Version 1.8 and Draft Access to Information Policy Version 1.5**

174

**Cr B Longland**  
**Cr P Youngblutt**

**RESOLVED** that Council:

1. In accordance with Section 161(2) of the Local Government Act 1993 considers that the amendments to the Draft Code of Conduct Policy (Version 1.8) and Draft Access to Information Policy (Version 1.5) are not substantial and therefore no public exhibition of the policies is required.
2. Adopts in accordance with Section 161 (1)(a) the amended Draft Code of Conduct Policy (Version 1.8) and Draft Access to Information Policy (Version 1.5).

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***

**45 [TCS-CM] Monthly Investment Report for Period Ending 28 February 2011**

175

**Cr P Youngblutt**  
**Cr B Longland**

**RESOLVED** that this report be dealt with in conjunction with the late report (Minute No 176 refers)

The Motion was **Carried**

***FOR VOTE - Unanimous***

**a45 [TCS-CM] Monthly Investment Report for Period Ending 28 February 2011**

176

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

**RESOLVED** that, in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at 28 February 2011 totalling \$166,240,528 be received and noted.

The Motion was **Carried**

***FOR VOTE - Unanimous***

## REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

### 46 [SUB-TCC] Minutes of the Tweed Coastal Committee Meeting held Wednesday 9 February 2011

177

**Cr B Longland**  
**Cr P Youngblutt**

**RESOLVED** that the:-

1. Minutes of the Tweed Coastal Committee Meeting held Wednesday 9 February 2011 be received and noted; and
2. The Executive Management Team's recommendations be adopted as follows:

A1. Draft Coastal Erosion Development Control Plan

As per the committee's recommendation being:

*"That the Draft Coastal Erosion Development Control Plan be placed on public exhibition for a period of 60 days, during which time the Tweed Coastal Committee will develop a submission."*

A2. Tweed DuneCare Coordinating Committee

*That Council notes the Committee's recommendation.*

The Motion was **Carried**

**FOR VOTE - Unanimous**

### 47 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 17 February 2011

178

**Cr B Longland**  
**Cr P Youngblutt**

**RESOLVED** that the:-

1. Minutes of the Local Traffic Committee Meeting held 17 February be received and noted; and

2. The Executive Management Team's recommendations be adopted as follows

A1 [LTC] Dry Dock Road, Tweed Heads

As per the Committee's recommendation being:

*"That "No Stopping" signage and linemarking be installed opposite to the entrance of Boyds Bay Caravan Park on Dry Dock Road."*

A2 [LTC] Ewing Street, Murwillumbah

As per the Committee's recommendation being:

*"That "No Parking" signage be extended from the Blood Bank driveway (near 8 Ewing Street) on the southern side of Ewing Street to meet with the existing "No Parking" signage to the west."*

The Motion was **Carried**

**FOR VOTE - Unanimous**

#### **48 [SUBCOM] Reports from Subcommittees and/or Working Groups**

This report was received and noted.

#### **ORDERS OF THE DAY**

#### **49 [NOR-Cr J van Lieshout] Mayoral Minute (Report) for the Period 5 January to 1 February 2011**

179

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

**PROPOSED** that the Council resolution at Minute No 45 in relation to Item 3 [MM] Mayoral Minute (Report) for the Period 5 January to 1 February 2011 of the Meeting held 15 February 2011 for the motion that was lost being:

***"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."*

be rescinded.



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**

**50 [NOM-Cr K Milne] Public Land**

This item was dealt with earlier in the Meeting at Minute No 136.

**51 [NOM-Cr K Milne] Water Sharing Plan**

This item was dealt with earlier in the Meeting at Minute No 137.

**52 [NOM-Cr K Milne] Cobaki Submission to Joint Regional Planning Panel**

This item was dealt with earlier in the Meeting at Minute No 138.

**53 [NOM-Cr J van Lieshout] Museums**

180

**Cr J van Lieshout**

**Cr B Longland**

**RESOLVED** that, in recognition of Council's undertaking in 2004 to establish the Tweed River Regional Museum consisting of the Tweed's three historical societies by signing a Memorandum of Understanding which included the construction of a purpose built museum at Flagstaff Hill, Tweed Heads and restoration/extension to the current Murwillumbah Museum, that:

1. In reference to the resolution of Item 54 – Council Meeting Tuesday 21 September 2010 that Council Officers bring forth this report for consideration at the Council meeting of 19 April 2011.
2. Council Officers prepare a report for consideration which identifies redundant assets that have served their purpose and are now a maintenance cost burden to Council, which could be disposed of in order to fund any shortfall in meeting the costs of the preferred options to meet this commitment.

The Motion was **Carried**

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

**AGAINST VOTE - Cr K Milne, Cr K Skinner**

**54 [NOM-Cr D Holdom] Reporting on Seminars / Conferences / Training / Educational Sessions by attending Councillors**

181

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

**PROPOSED** that the Policy document "*Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors*" v 1.5 adopted on 16 November 2010 be amended to include the following:

1. The Form "Conference Record" will form part of the Policy Document.
2. The inclusion of the following within s2.2.1:

*"All Councillors attending any Seminars/Conferences, will submit a full report on their attendance to the next full council meeting so as to form part of the public record under the Monthly Business Agenda at: The Mayoral Minute (Report) as shown 'Conferences attended by the Mayor and/or Councillors'."*

3. A full breakdown of all expenses incurred (as assessed by the relevant Council Officer) is provided in Monthly Ordinary Business Agenda within two months of the Seminar/Conference as attended by the Councillor/s and this is referenced back to the applicable Seminar/Conference.
4. When only one Councillor attends a training/educational course; items 1, 2 and 3 as above apply to s 2.2.2 of the same Policy.
5. This Policy on Reporting applies to any Councillor regardless of whether they claim any or all expenses from Council, due to the fact that the Full Council resolves to authorise the attendance of any Councillor at any listed (nominated) Conference as per the Monthly Mayoral Minute (Report).

#### **TEMPORARY ABSENCE FROM MEETING**

Cr P Youngblutt left the meeting at 09:18 PM

#### **RETURN TO MEETING**

Cr P Youngblutt has returned from temporary absence at 09:20 PM

The Motion was **Lost**

**FOR VOTE - Cr D Holdom, Cr B Longland**

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

**55 [NOM-Cr D Holdom] Draft Tweed Local Environmental Plan 2010 and Tweed Development Control Plan Section A1 - Residential and Tourist Development Code**

182

**Cr D Holdom  
Cr P Youngblutt**

**RESOLVED** that the General Manager investigates (by way of a review) and reports back to Council on the Planning Controls on Tourist Accommodation within Draft Tweed Local Environmental Plan 2010 and Tweed Development Control Plan Section A1- Residential and Tourist Development Code.

**TEMPORARY ABSENCE FROM MEETING**

Cr W Polglase left the meeting at 09:35 PM

**RETURN TO MEETING**

Cr W Polglase has returned from temporary absence at 09:36 PM

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***

**QUESTIONS ON NOTICE**

**56 [QON-Cr D Holdom] Clarrie Hall Dam**

**QUESTION ON NOTICE:**

Councillor D Holdom asked:

Was Clarrie Hall Dam built primarily for Water Storage or for Flood Mitigation?

The Director Community and Natural Resources responded that the Clarrie Hall Dam was built primarily for water storage.

## 57 [QON-Cr D Holdom] Water Storage versus Flood Mitigation

### QUESTION ON NOTICE:

Councillor D Holdom asked:

If a dam was to be built within the Tweed Shire Local Government area for Flood Mitigation only:

1. How big would it have to be?
2. Where would the dam wall start and finish? and
3. How high would the wall have to be to take a PMF event?

The Director Engineering and Operations responded as follows:-

Questions 1. and 2.

The only detailed source I have found examining this flood mitigation option is the "Report of the Tweed River Valley, Flood Mitigation Committee, February 1957" Annexure 3 of the report investigated the following four flood mitigation dams;

Site	Height (feet)	Area (acres)	Capacity (acre ft)	Catchment square miles	Est Feb 54 Flood Discharge (acre ft)	Crest length (feet)	Cost Million Pounds
<b>North Arm</b> Down stream Chillingham	105	700	18,500	24	18,500	1,030	2
<b>Middle Arm</b> Rocky Cutting	110	1,000	30,500	80	67,000	450	1 <sup>1/8</sup>
<b>South Arm</b> Terragon - Down stream Byrill Ck junction	115	1,300	46,000	60	46,000	530	1 <sup>3/5</sup>
<b>Doon Doon Creek</b>	100	600	17,000	23	14,000	400	3/4

The catchment area of the Tweed River above Murwillumbah is 250 square miles and at Tweed Heads is 422 square miles. The above dams would therefore only provide flood attenuation on a fraction of the contributing catchment.

The report's Section 16, Conclusions and Recommendations, paragraphs 7, 8 & 9 advises:

"Flood Storages

7. *As will be seen from this report, the committee has investigated the possibility of constructing flood storage dams on the three Arms of the river, but for reasons stated the Committee has with some reluctance rejected them as economically practicable flood mitigation measures. However, the Committee desires to reiterate that special consideration should be given to the possibility of constructing a dual purpose water conservation and flood storage dam on the Middle Arm of the river in the event of it being decided to improve the water supply for the Tweed Shire by constructing a water supply dam on that arm.*

8. *Should it be decided to construct such a dam in the near future its immediate extension to provide additional capacity for flood storage would not be warranted. Altered circumstances in the Valley, e.g. increased population, intensified rural development, etc. may at some later date necessitate a review of this possibility and heavy costs could be avoided if the water supply dam were planned and designed to provide for future extension for flood storage.*

9. *IT IS RECOMMENDED, therefore, that should it be decided in the future to construct a water supply dam on the Middle Arm of the river, consideration be given to designing that dam with a view to its possible future extension to provide an increased storage for flood mitigation purposes. The construction of a dam designed on that basis should be regarded as a partial flood mitigation measure and any additional work involved in the design and building of the dam to provide for its future extension for that purpose should be regarded as in the same category as other flood mitigation works recommended and the cost met on the same contributory basis."*

Question 3.

I am not aware of any investigations of flood mitigation dams to take a PMF event. Therefore, I cannot answer this question.

The 1957 report does advise however:

*"From this investigation it appears that a dam on the Middle Arm would reduce the peak height of a flood similar to that of February 1954, by more than one foot and the average frequency from once in 60 years to once in 250 years, and a medium flood would be reduced by more than two feet and the average frequency from a once in four years to once in eight years. A dam on the South Arm would have a similar effect."*

Annexure 3 of the Committee Report being "Department of Public Works, NSW Harbours and Rivers Branch - Tweed River Flood Mitigation Report, December, 1956" - Harrison and Lipping, advises in relation to dams on the South and Middle Arms

*"It seems reasonable to assume that the total effect of both dams would be at least equal to double the effect of the Middle Arm dam alone."*

The above reports predicted combined reductions for flood peaks at Murwillumbah gauge with the two dams in place are:

Minor flood	Reduce by 3.0 ft
Medium flood	Reduce by 4.6 ft
Major flood	Reduce by 3.2 ft
Feb 1954 flood	Reduce by 2.6 ft

## **CONFIDENTIAL COMMITTEE**

183

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

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

The Motion was **Carried**

***FOR VOTE - Unanimous***

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

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

**1 [EO-CM] Urliup Road, Urliup - Land Acquisition for Road and Compensation Purposes**

**REASON FOR CONFIDENTIALITY:**

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

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

C 19

That:

1. Council approves the acquisition of Land from Lot 2 in DP 222004 and Lot 51 in DP 755685 for road purposes and further approves the proposed compensation as noted in the body of the report under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act, 1993;
2. All necessary documentation be executed under the Common Seal of Council.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**2 [EO-CM] Carool Road, Carool - Land Acquisition for Road and Compensation Purposes**

**REASON FOR CONFIDENTIALITY:**

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

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

C 20

That:

1. Council approves the compensation payable to the owner of Lot 6 in DP 13083 for the acquisition and dedication of road as noted in the body of this report.
2. All necessary documentation be executed under the Common Seal of Council.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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

C 21

That:

1. The resolution at Minutes Numbers C66 and 882 of the Council Meeting of 14 December 2010, being:

*"that:*

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



3. *Compensation for the acquisition be approved as noted in the body of the report; and*
4. *All necessary documentation be executed under the Common Seal of Council."*

be rescinded.

2. Council approves the acquisition of Lots 1-4 in DP 1156967 under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991* for the purposes of the *Roads Act, 1993* and the making of the necessary application to the Minister and/or Governor;
3. Lots 1-3 in DP 1156967 be dedicated as road following gazettal of the acquisition;
4. Compensation for the acquisition be approved as noted in the body of the report to Confidential Council Meeting on 14 December 2010; and
5. All necessary documentation be executed under the Common Seal of Council.

The Motion was **Carried**

**FOR VOTE - Unanimous**

#### **ORDERS OF THE DAY IN COMMITTEE**

- 4 **[NOM-Cr J van Lieshout] Equestrian Pad and Other Associated Fill Activity on Premises, Lot 7 DP 826941, Tomewin Road, Dungay**

#### **REASON FOR CONFIDENTIALITY:**

*Confidential Nature of this Item: The Local Government Act 1993 Clause 10A(2)*

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

C 22

That, in reference to the Equestrian Pad and other related fill activity on premises, Lot 7 DP 826941 No. 308 Tomewin Road Dungay and the potential obstruction of natural waterways caused by unapproved fill, that the officers bring forward a report to 19 April 2011 Council Meeting, which identifies the options for any compliance investigations or legal action relating to the alleged unauthorised fill activity between the house and the shed and the shed and the equestrian pad, as well as the original equestrian pad complaint, with the desired overall objective that the natural water courses be returned to natural ground level.

The Motion was **Carried**

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

**5 [NOM-Cr D Holdom] Equestrian Pad Compliance Matter at Lot 7 DP  
826941 No. 308 Tomewin Road, Dungay**

**REASON FOR CONFIDENTIALITY:**

Confidential Nature of this Item: The Local Government Act 1993 Clause 10A(2)

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

This item was withdrawn.

184

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

**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 10.11pm.



**Minutes of Meeting Confirmed by Council**

**at the**

**Council Meeting held on xxx**

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**Chairman**