



TWEED
SHIRE COUNCIL

Mayor: Cr B Longland (Mayor)

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

Minutes

Ordinary Council Meeting Tuesday 15 November 2011

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

Also present were Mr Mike 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 Neil Baldwin (Manager Corporate Governance/Public Officer), Mrs Meredith Smith and Mrs Kerrie McConnell (Minutes Secretary).

ABORIGINAL STATEMENT

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

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

PRAYER

The meeting opened with a Prayer by Council's Chaplain, Jacob Vandersteen:

"Psalm 67

May God be gracious to us and bless us and make his face shine on us so that your ways may be known on earth, your salvation among all nations.

May the peoples praise you, God; may all the peoples praise you. May the nations be glad and sing for joy, for you rule the peoples with equity and guide the nations of the earth.

May the peoples praise you, God; may all the peoples praise you. The land yields its harvest; God, our God, blesses us. May God bless us still, so that all the ends of the earth will fear him.

In this Psalm we see that God rules the whole world, and for those who trust Him and give him the praise as the only True God will be blessed, not only individually but He also blesses nations.

Prayer:

Lord God and Heavenly Father, we thank you because you created all things, the Heavens and the Earth, the great and mighty animals to the smallest of microbes, from the birds that soar the thermals, to the sea creatures that swim at great depths. We thank you for this great land of Australia that we live in, its beauty and its ruggedness, from desert, to rainforest.

We thank you for this Tweed Valley that we live in, for those who govern this land, and for those who rule in this local government. We pray for each of the councillors here today, that they may make decisions that will honour you O God, and will be for the good of the people of the Tweed. We Pray that your Understanding will be over each member here, and that you will bless them with health and wisdom. This we ask in the name of Jesus Christ, our Lord and Saviour.

Amen"

CONFIRMATION OF MINUTES

1 [CONMIN] Confirmation of Ordinary and Confidential Minutes of Meeting held Tuesday 18 October 2011

646

Cr D Holdom

Cr P Youngblutt

RESOLVED that the Minutes of the Ordinary and Confidential Council Meetings held Tuesday 18 October 2011 be adopted as a true and accurate record of proceedings of that meeting.

The Motion was **Carried**

FOR VOTE - Unanimous

APOLOGIES

Nil.

DISCLOSURE OF INTEREST

Cr P Youngblutt wishes to declare a *perceived non pecuniary non significant* Interest in Item a11. The nature of the interest is that Cr Youngblutt's brother works and lives on the Creek Street property.

Cr J van Lieshout declared a *perceived pecuniary* Interest in Item 31. The nature of the interest is that Cr van Lieshout's husband has a development interest that will incur Tweed Road Contribution costs.

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

Nil.

SCHEDULE OF OUTSTANDING RESOLUTIONS

2 [SOR-CM] Schedule of Outstanding Resolutions

The Schedule of Outstanding Resolutions was received and noted.

MAYORAL MINUTE

3 [MM] Mayoral Minute for the Period 05 October to 02 November 2011

647

Cr B Longland

RESOLVED that:

1. The Mayoral Minute for the period 05 October to 02 November 2011 is received and noted, subject to the following advice being noted that:

Cr Milne attended the National Day of Action against Coal Seam Gas (CSG) Mining at Jack Evans Boatharbour on 16 October 2011

Cr Skinner attended the Local Traffic Committee Meeting on 17 October 2011

Cr van Lieshout attended the Tweed Bypass Project Meeting on 2 November 2011 instead of the Public Meeting at Tumbulgum.

2. The attendance of Councillors at nominated Conferences is authorised:

- 29 November 2011 - Cr Milne - Regional Aboriginal Community Workshop, South Tweed Heads
- 29 February 2012 - Cr Skinner - Floodplain Management Authority (NSW) Conference, Batemans Bay (for the purpose of early bird registration)

Note: Details of the Floodplain Management Conference will be submitted to a future meeting to allow Expressions of Interest from other Councillors.

The Motion was **Carried**

FOR VOTE - Unanimous

4 [MM-CM] Mayoral Minute - Councillor Representation - Destination Tweed

648

Cr B Longland

PROPOSED that the Mayor Cr Barry Longland be nominated as Council's representative on the Board of Destination Tweed.

The Motion was **Lost**

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

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

ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

5 [GM-CM] General Manager Recruitment

649

Cr W Polglase

Cr D Holdom

RESOLVED that this item be deferred to 6.15pm for discussion in Confidential Committee, prior to the adjournment of the meeting for the dinner break.

The Motion was **Carried**

FOR VOTE - Unanimous

6 [GM-CM] Reporting of Code of Conduct Complaints

650

Cr W Polglase

Cr K Skinner

RESOLVED that Council receives and notes the Code of Conduct Complaint Report for the period 1 July 2010 to 30 June 2011.

The Motion was **Carried**

FOR VOTE - Unanimous

7 [GM-CM] Regional Development Australia Grant Fund - Round 2

651

**Cr D Holdom
Cr W Polglase**

RESOLVED that Council:

1. Nominates Arkinstall Park as its priority project for grant funds under Round 2 of the Regional Development Australia Fund.
2. Approves the execution of all documents necessary to complete such applications.

The Motion was **Carried**

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

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

652

**Cr P Youngblutt
Cr D Holdom**

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

The Motion was **Carried**

FOR VOTE - Unanimous

9 [PR-CM] Development Application DA11/0164 for alterations, additions and part demolition of three flats to construct a three storey dwelling at Lot 2 DP557216 26 Tweed Coast Road Hastings Point

653

**Cr P Youngblutt
Cr D Holdom**

RESOLVED that Development Application DA11/0164 for alterations, additions and part demolition of three flats to construct a three storey dwelling at Lot 2 DP557216 26 Tweed Coast Road, Hastings Point be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos Johnston EP:01 Issue V, Johnston DA:01 Issue V, Johnston DA:02 Issue V, Johnston DA:03 Issue V, Johnston DA:04 Issue V, Johnston DA:04A Issue V and Johnston DA:05 Issue V prepared by Brian Kenny and dated 29 August 2011, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

3. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0300]]

4. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate. The footing design is to incorporate design principles as detailed in the structural design intent certificate by Mark Traucnieks consulting Engineers dated 8 March 2011 to address potential coastal erosion influences.

[PCC0945]

5. The existing brick barbeque on the foreshore east area of the site is to be removed.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

[PCC0285]

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

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

will not be approved until prior separate approval to do so has been granted by Council under S68 of the Local Government Act.

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

- b) Where Council is requested to issue a construction certificate for civil works

associated with a subdivision consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

[PCC1145]

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

[PCW1065]

9. Dilapidation reports detailing the current general condition including the structural condition of the adjoining buildings/sites, infrastructure and driveway are to be prepared and certified by a suitably qualified and experienced structural engineer. The reports are to be submitted to Council prior to commencement of ANY works on the site.

[PCW0775]

10. Prior to the commencement of work on the stormwater system a site inspection is to be arranged with the Principal Certifying Authority to discuss site drainage.

[PCW0995]

11. Prior to commencement of any work on the site a construction management plan is to be submitted to and approved by the Principal Certifying Authority. The plan is to detail how the construction will manage deliveries, general construction vehicle movement, concrete deliveries, traffic management, and in particular the minimisation of disruption to the residential units that share the driveway access.

[PCWNS01]

PRIOR TO COMMENCEMENT OF WORK

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

- (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
- (ii) notified the principal certifying authority of any such appointment, and
- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

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

[PCW0245]

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

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

[PCW0255]

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

[PCW0225]

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

[PCW1005]

17. 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]

18. Residential building work:

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

[PCW0235]

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

[DURNS01]

20. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake the works.

[DUR0675]

21. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures", to the relevant requirements of the WorkCover NSW, Occupational Health and Safety Regulation 2001 and the approved demolition work plan.

The proponent shall also observe the guidelines set down under the Department of Environment and Climate Change publication, "A Renovators Guide to the Dangers of Lead" and the Workcover Guidelines on working with asbestos.

[DUR0645]

22. Construction and management of the building shall comply with Section 1.0 of the Bushfire Threat Assessment Report by BCA Check Pty Ltd dated 15th February 2011 and all boundary fences are to be constructed of non-combustible materials.

[DURNS02]

DURING CONSTRUCTION

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

[DUR2705]

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

Please note timber retaining walls are not permitted.

[DUR0835]

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

[DUR0375]

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

[DUR2185]

27. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.

[DUR0905]

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

[DUR0395]

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

[DUR0405]

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

[DUR0415]

31. 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]

32. 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]

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

[DUR0245]

34. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

- (a) internal drainage, prior to slab preparation;
- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- (c) external drainage prior to backfilling.
- (d) completion of work and prior to occupation of the building.

[DUR2485]

35. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.

[DUR2495]

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

[DUR1945]

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

[DUR2515]

38. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

[DUR2545]

39. The finished floor level of the building should finish not less than 225mm above finished ground level.

[DUR0445]

40. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- * 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50°C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR2555]

41. 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]

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

[POC1045]

43. Upon completion of all works on the site and prior to the issue of an Occupation (including interim) / Subdivision Certificate, a further dilapidation report is to be prepared and certified by a suitably qualified and experienced structural engineer detailing the current general condition including the structural condition of the adjoining buildings / sites, infrastructure and roads. The dilapidation reports shall take into consideration the findings of the original reports and provide to Council the written acceptance of the adjoining / adjacent owners confirming agreement that no damages have occurred / repairs carried out are acceptable.

[POC0825]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0205]

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

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

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

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

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

[POC0265]

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

[POC0435]

USE

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

[USE0175]

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

[USE0505]

SUSPENSION OF STANDING ORDERS

654

Cr B Longland

Cr D Holdom

RESOLVED that Standing Orders be suspended to deal with Item 9 in Committee of the Whole, as per Clause 9.2 of the Code of Meeting Practice.

The Motion was **Carried**

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

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

RESUMPTION OF STANDING ORDERS

655

Cr K Skinner

Cr J van Lieshout

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

AMENDMENT

656

**Cr K Milne
Cr B Longland**

PROPOSED that this item be deferred for consideration at the December Council meeting.

The Amendment was **Lost**

FOR VOTE - Cr K Milne, Cr B Longland

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

The Motion was **Carried** - (Minute No 653 refers)

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

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

A RESCISSION MOTION IN RELATION TO THE ABOVE ITEM HAS BEEN RECEIVED FROM COUNCILLORS MILNE, LONGLAND AND VAN LIESHOUT.

10 [PR-CM] Development Application DA11/0099 for a Detached Dual Occupancy at Lot 1 DP 777228; No. 61 Bimbadeen Avenue, Banora Point

657

**Cr D Holdom
Cr K Milne**

RESOLVED that Development Application DA11/0099 for a detached dual occupancy at Lot 1 DP 777228; No. 61 Bimbadeen Avenue, Banora Point be refused for the following reasons:

1. The proposed development proposes excessive levels of cut and excessive height for retaining walls.
2. The application fails to provide adequate usable ground floor external living areas or outdoor spaces that are sufficiently integrated to the houses to facilitate private outdoor recreational and relaxation space.
3. The application fails to adequately comply with:
 - Tweed Local Environmental Plan 2000; and
 - Tweed Development Control Plan Section A1 Part B.
4. The development is not considered to be consistent with the general public interest as the development fails to uphold the integrity of the approved planning instruments for the Shire.

AMENDMENT

658

**Cr W Polglase
Cr P Youngblutt**

PROPOSED that Council grants in principle support for the proposal, and that the officers bring back a further report to Council with possible conditions of development consent.

The Amendment was **Lost**

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

PROCEDURAL MOTION

659

**Cr D Holdom
Cr J van Lieshout**

RESOLVED that the motion be put.

The Motion was **Carried**

FOR VOTE - Unanimous

The Motion was **Carried** - (Minute No 657 refers)

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

11 [PR-CM] Class 1 Appeal in Relation to Amendment (DA10/0160.01) to Development Consent DA10/0160 for the Change of Use from Motel to Combined Motel and Permanent Residential Apartments at Lot 9 DP 1094335; No. 77 Tamarind Avenue, Bogangar

660

**Cr K Skinner
Cr D Holdom**

RESOLVED that the report on the Class 1 Appeal in Relation to Amendment (DA10/0160.01) to Development Consent DA10/0160 for the Change of Use from Motel to Combined Motel and Permanent Residential Apartments at Lot 9 DP 1094335; No. 77 Tamarind Avenue, Bogangar be received and noted.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

LATE ITEMS

661

**Cr D Holdom
Cr W Polglase**

RESOLVED that Items a11, b11 and c11 being Addendum items be dealt with and they be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

FOR VOTE - Unanimous

a11 [PR-CM] Class 1 Appeals - Section 96 Applications DA09/0344.05 and DA09/0290.06 refused under delegated authority relating to the original development consents for the Construction of New Two Storey Dwelling Houses at Lot 11 DP 24564, No. 4 Creek Street

Cr P Youngblutt declared a perceived non-significant, non-pecuniary Interest in this item, left the Chamber at 04:51 PM and took no part in the discussion or voting. The nature of the interest is that his brother lives and works on the Creek Street, Hasting Point property.

662

**Cr D Holdom
Cr K Milne**

RESOLVED that Council, in respect of the Class 1 Appeals lodged in the NSW Land and Environment Court (LEC) for the respective Section 96 applications DA09/0344.05 and DA09/0290.06, refused under delegated authority relating to the original development consents for the Construction of New Two Storey Dwelling Houses at Lot 11 DP 24564, No. 4 Creek Street and Lot 10 DP 24564, No. 6 Creek Street, Hastings Point engages its solicitors to seek to continue to defend these appeals but delegate to the General Manager the power to either defend or resolve the matter as considered appropriate in the light of further information provided by the Applicant and the expert evidence prepared in the matter.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr P Youngblutt

Cr P Youngblutt has returned from temporary absence at 04:53 PM

b11 [PR-CM] Class 1 Appeal - Section 96 Application D97/0175.02 for an Amendment to Development Consent D97/0175 for the Establishment of a Brothel/Escort Agency at Lot 6 DP 249122, No. 17 Morton Street, Chinderah

663

**Cr D Holdom
Cr K Skinner**

RESOLVED that Council in respect of its decision to refuse D97/0175.02 for the extension of hours and proposed internal building works to the brothel/escort agency at Lot 6 DP249122, No. 17 Morton Street, Chinderah engages its solicitors to negotiate Consent Orders for the brothel/escort agency.

The Motion was **Carried**

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

c11 [PR-CM] Development Application DA11/0014 for a Community Health Centre at Lots 534, 535 DP 48641 No. 10B Elizabeth Street, Pottsville

664

**Cr D Holdom
Cr B Longland**

RESOLVED that:

1. Council removes the standard conditions in regard to Section 94 and Section 64 contributions as requested by the Crown based on the NSW Department of Planning and Department of Land and Water Conservation circulars and therefore;
2. Council approves Development Application DA11/0014 for a Community Health Centre at Lots 534, 535 DP 48641 No. 10B Elizabeth Street, Pottsville subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans as listed in the table below, except where varied by the conditions of this consent.
[GEN0005]
2. 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]
3. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.
[GEN0265]

4. DELETED

[GENNS01]

5. Only waste classified as "general waste" under the NSW waste classifications guidelines is to be disposed in the general waste collection service. No clinical waste or sharps are to be disposed of in the general waste bins at any time.
6. Suitable road access shall be maintained so as to ensure waste service vehicles may traverse in a forward motion while entering and exiting the property.
7. Servicing of the waste and recycling bins shall be carried out so as not to cause a nuisance to occupants of adjoining properties.
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.

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

9. Appropriate radiation shielding shall be installed within all areas where it is proposed to use ionising radiation apparatus. Such shielding shall comply with the requirements of the NSW Radiation Control Act 1990, the NSW Radiation Control Regulation 2003 and any Radiation Guidelines under such legislation that are relevant to the operation of the business. Any such shielding shall be installed by an appropriately qualified and experienced person. Appropriate certification shall be provided to Council from the qualified person certifying that the installation of the radiation shielding complies with all relevant provisions of the legislation. Such certification shall be provided to the satisfaction of Council's General Manager or his delegate prior to use of the building.

[GENNS02]

10. DELETED

11. DELETED

12. DELETED

13. As an offset for the loss of the large Forest Red Gum and Scribbly Gums on the site, the applicant must provide improved koala habitat connectivity to reduce the risk of road strike at the intersection of Pottsville Wetland and Pottsville Environment Park. The improved habitat connectivity will be through either installation of a road culvert or a safe road crossing point. A one off contribution to the value of \$50,000 shall be paid to Tweed Shire Council prior to occupation or use of the building and incorporated into any future road works undertaken by Council at that location, where possible.

If road culverts are provided, there shall be two 1.2m X 1.2m culverts to replace the existing three 900mm pipes, with one culvert fitted with a bench that remains dry, in addition to minor fencing and additional planting, linking the two important habitat areas.

14. No trees outside the development footprint are to be removed without the prior consent of Council.
15. The Applicant will submit a *Tree Protection and Habitat Restoration Plan* to Director Planning and Regulation for approval, detailing measures to protect retained native trees on site during and after construction, including use of porous paving where car parks encroach on tree root zones. The plan is to be received by Council within 60 days of the date of this consent. The plan will also detail and schedule the planting of additional local native trees and other local native species in the south-east corner of the site with a maintenance period not less than five years and the gradual replacement of exotic and non-local species with local native species along the eastern boundary.
16. Works must accord with the approved Tree Protection and Habitat Restoration Plan at all times.

[GENNS05]

PRIOR TO COMMENCEMENT OF WORK

17. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

18. 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.

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]

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

[PCW1065]

20. Prior to the topsoil stripping and excavation work on site the applicant is required to make adequate arrangements to ensure a representative of the Tweed Byron Aboriginal Council is present during topsoil stripping prior to excavation work.

21. A Traffic Control Plan in accordance with AS1742 and the latest version of the RTA publication "Traffic Control at Work Sites" shall be prepared by an RTA accredited person and shall be submitted prior to commencement of work. Safe public access shall be provided at all times.

[PCWNS01]

22. Erosion and Sediment Control shall be provided in accordance with the following:
- (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".
23. Prior to commencement of works, the applicant is to submit an acid sulfate soil assessment and management plan prepared in accordance with the NSW ASSMAC - Acid Sulfate Soil Manual 1998 to the satisfaction of Council's General Manager or his delegate.
24. Prior to commencement of works, the applicant is to submit a noise impact report to the satisfaction of Council's General manager or his delegate. The report shall include but not be limited to the assessment of noise impacts from construction noise, traffic movements, parking and mechanical plant, and include appropriate mitigation measures.
25. Prior to commencement of works, a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height should be sought. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and be supported by Geotechnical assessment of the founding material.
26. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:
- (a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.
 - (b) Right of carriageway and shared car park benefiting Council (as per DA10/0650). The Section 88B Instrument is to contain a provision enabling the right of way and car parking to be revoked, varied or modified only with the consent of Council.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway and carpark shall make provision for maintenance of the right of carriageway and carpark 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.

[PCWNS02]

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

undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:

- (a) Vehicular access to the proposed ambulance bay and carpark
- (b) A concrete footpath 1.2m in width, 100mm thick and reinforced with F72 mesh is to be constructed on a compacted base along the entire frontage of the site works on Lots 534 & 535 DP 48641, Elizabeth Street, Pottsville.
- (c) Construction of upright kerb and guttering, and road widening to accommodate an 11m wide pavement width from kerb to kerb. The road is to be upgraded in accordance with Council's preliminary road reconstruction design drawings for Elizabeth Street prepared by Council's design unit. The works are required to be provided for the full frontage of the site works on Lots 534 & 535 DP 48641, Elizabeth Street Pottsville.
- (d) In regards to (b) and (c) above a monetary contribution to Tweed Shire Council can be negotiated to the satisfaction of the Director of Engineering and Operations to enable Council to undertake these works.

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

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

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

- (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.
- (d) Specific Requirements to be detailed include:
 - (i) The construction of any retaining wall, cut/fill batter or site regrading must at no time result in additional ponding occurring within neighbouring properties.

- (ii) Runoff from all hardstand areas, (including car parking and hardstand landscaping areas and excluding roof areas) must be treated to remove oil and sediment contaminants prior to discharge to the public realm. All permanent stormwater treatment devices must be sized according to Council's Development Design Specification D7 – Stormwater Quality, Section D7.12.
29. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to commencement of works. The engineering details are to demonstrate that the construction of any retaining wall, cut/fill batter or site regrading does not result in additional ponding within neighbouring properties.

[PCWNS03]

DURING CONSTRUCTION

30. All proposed works are to be carried out in accordance with the conditions of development consent, drawings and specifications.
31. If during construction works any Aboriginal object or relic is disturbed or uncovered, works are to cease and the Department of Environment, Climate Change and Water are to be notified immediately, in accordance with the provisions of the National Parks and Wildlife Act 1974.
32. 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.
33. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia.
34. DELETED
35. 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.
36. 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 commencement of use.

[DUR0995]

37. 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]

38. Landscaping of the site shall be carried out and maintained in accordance with the submitted/approved landscaping plans (Drawings 708-LD01, 708-LD02 and 708-PP01) having regard to the approved Tree Protection and Habitat Restoration Plan.

[DUR1045]

39. All works shall be carried out in accordance with the approved Acid Sulfate Soils Investigation and Management Plan.

[DUR1065]

40. 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]

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

[DUR1875]

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

[DUR1925]

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

[DUR2445]

44. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

- (a) internal drainage, prior to slab preparation;
- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- (c) external drainage prior to backfilling.
- (d) completion of work and prior to occupation of the building.

[DUR2485]

45. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.

[DUR2495]

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

[DUR2535]

47. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

[DUR2545]

48. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-

- * 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50°C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR2555]

49. Prior to the commencement of any road construction upgrade works for the road widening; pavement design detail, including reports from a Registered NATA Consultant shall be submitted to Council for approval. The pavement is to be designed in accordance with Council's Development Design Specification D2.

[DURNS01]

50. A recognised and experienced fauna spotter/catcher must be present during any tree removal on the site.

[DURNS02]

USE

51. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.
- [USE0125]
52. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.
- [USE0175]
53. Hours of operation of the business are restricted to the following hours:
- * 8.30am to 5.30pm - Mondays to Fridays
 - * 'Community Information' and/or 'Public Health' meetings are permitted outside of these times within the facility.
 - * No operations are to be carried out on weekends or Public Holidays
 - * All deliveries and pickups relating to the business are to occur within the approved hours
- [USE0185]
54. All externally mounted artificial lighting, including security lighting, is to be shielded in line with Occupational Health and Safety Standards so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.
- [USE0225]
55. Clinical wastes shall be separated from the general waste stream and disposed via a clinical waste collection and disposal service. Suitable arrangements shall be made for the collection and disposal of clinical wastes to the satisfaction of the General Manager or his delegate.
- [USE0995]
56. A sharps container shall be provided for the storage of used disposable needles in any skin penetration process. The sharps container shall be collected by an authorised medical waste collection service to the satisfaction of Council's General Manager or his delegate.
- [USE1025]
57. All hazardous and/or dangerous goods shall be stored in accordance with requirements of WorkCover NSW.
- [USE1035]
58. Prior to the use of any ionising or non-ionising radiation apparatus and/or any radioactive substance the applicant shall obtain a licence under the relevant provisions of the Radiation Control Act 1990 for the appropriate authority. The owner of any radiation apparatus or sealed source device shall also ensure that where required under the provisions of the Radiation

Control Act 1990 that such device or apparatus is registered with the appropriate authority.

[USE1100]

59. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining works in accordance with Councils Development Design and Construction Specifications.
60. DELETED
61. Prior to use, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.
62. Prior to the occupation or use of any building, a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.
[USENS01]
63. Prior to use, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.
64. Prior to use, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 138 of the Roads Act 1993.
[USENS03]

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

SUSPENSION OF STANDING ORDERS

665

**Cr W Polglase
Cr K Skinner**

RESOLVED that Standing Orders be suspended to deal with Items 35 and 37 of the Agenda.

The Motion was **Carried**

FOR VOTE - Unanimous

35 [EO-CM] Riverside Drive, Tumbulgum - Parking Configuration

666

**Cr B Longland
Cr D Holdom**

PROPOSED that the alternate plan with 11 additional car parking spaces and associated loss of 200m² of parkland in Riverside Drive, Tumbulgum be the preferred option.

AMENDMENT 1

667

**Cr K Milne
Cr J van Lieshout**

PROPOSED that the plan adopted by Council in August 2010 and currently under construction in Riverside Drive, Tumbulgum be the preferred option.

Amendment 1 was **Lost**

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

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

AMENDMENT 2

668

**Cr W Polglase
Cr P Youngblutt**

PROPOSED that the alternate plan suggested by the Tumbulgum Community Association representatives on 24 October 2011 with 18 additional car parking spaces and associated loss of 355m² of parkland in Riverside Drive, Tumbulgum be the preferred option.

Amendment 2 was **Lost**

FOR VOTE - Cr P Youngblutt, Cr W Polglase

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

AMENDMENT 3

669

**Cr K Skinner
Cr D Holdom**

RESOLVED that 15 right angle car parks be provided in front of the Hotel and the northern section of proposed 90 degree car parking in Riverside Drive, Tumbulgum be halved, as per option 4 outlined in the report, to the satisfaction of the General Manager or his delegate.

Amendment 3 was **Carried**

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

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

Amendment 3 on becoming the Motion was **Carried** - (Minute No 669 refers)

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

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

37 [EO-CM] EC2011-012 Kirkwood Road Project Tender Assessment

670

Cr W Polglase

Cr P Youngblutt

RESOLVED

1. That Council awards the contract EC2011-012 Construction of the Kirkwood Road Project to SEE Civil Pty Ltd for the Schedule of Rates and Lump Sums amount of \$12,323,591 inclusive of GST subject to the following:
 - a. The Roads and Maritime Services formally advise that they have allocated an increased contribution in the range of \$6 million to \$7 million for the Kirkwood Road Project.
 - b. The Roads and Maritime Services provide a Works Authorisation Deed (WAD) that is acceptable to Tweed Shire Council for works within the Pacific Highway corridor for the duration of the contract.
2. The General Manager be given delegated authority to approve variations up to a total value of \$150,000.
3. ATTACHMENTS A and B are CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-

confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

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 K Skinner, Cr J van Lieshout, Cr B Longland

AGAINST VOTE - Cr K Milne

CONFIDENTIAL COMMITTEE

671

Cr W Polglase
Cr D Holdom

RESOLVED that Council resolves itself into a Confidential Committee in accordance with Section 10A(2) of the Local Government Act 1993 (as amended) to discuss Item 5 [GM-CM] General Manager Recruitment and that staff and 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.

ADJOURNMENT OF MEETING

Adjournment for dinner at 6.30pm.

RESUMPTION OF MEETING

The Meeting resumed at 7.30pm

672

Cr W Polglase
Cr K Skinner

RESOLVED that the Committee resumes in Open Council.

The Motion was **Carried**

FOR VOTE - Unanimous

5 [GM-CM] General Manager Recruitment

673

Cr B Longland
Cr W Polglase

RESOLVED that this item be deferred to:

1. A Workshop for Councillors only to be held on Tuesday 22 November 2011 commencing at 3.30pm.
2. An Extraordinary Meeting of Council to be held on Tuesday 22 November 2011 commencing at 4.30pm.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

12 [CNR-CM] Waste and Sustainability Payments 2011/2012

674

**Cr D Holdom
Cr K Skinner**

RESOLVED that Council authorises the General Manager and Manager Financial Services to sign the 2011/2012 Action Table Report to commit the WaSIP funds to the nominated projects.

The Motion was **Carried**

FOR VOTE - Unanimous

13 [CNR-CM] Variation Report - Contract HC2008-112 Environmental Assessment - Eviron Road Quarry and Landfill Proposal

675

**Cr D Holdom
Cr K Skinner**

RESOLVED that Council delegates authority to the General Manager to approve further variations of up to \$150,000 for contract HC2008-112 Environmental Assessment - Eviron Road Quarry and Landfill Proposal.

The Motion was **Carried**

FOR VOTE - Unanimous

14 [CNR-CM] 2010/2011 Annual Report North East Waste Forum

676

**Cr D Holdom
Cr K Skinner**

RESOLVED that the 2010/2011 Annual Report North East Waste Forum be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

15 [CNR-CM] Navigational Dredging of Cudgen Creek

677

**Cr D Holdom
Cr K Skinner**

RESOLVED that Council receives and notes the report on Navigational Dredging of Cudgen Creek.

The Motion was **Carried**

FOR VOTE - Unanimous

16 [CNR-CM] Tweed River Entrance Sand Bypass Project - Feasibility Reports on Options for Improving Sand Bypassing System Operations

678

**Cr D Holdom
Cr J van Lieshout**

RESOLVED that Council makes the following submission to the Tweed River Entrance Sand Bypassing Project Options Feasibility - Summary Report:

- **Option 3 - Kingscliff Sand Delivery**
Council supports further investigation by the NSW Government of the overall feasibility of this option. Council acknowledges that this option has more merit to the NSW Government and Tweed Shire Council than the Tweed River Entrance Sand Bypassing Project however this should not be discounted for further investigation as a viable option for Tweed Shire and Kingscliff Beach.
- **Option 4 - Sand Back passing along Letitia Spit**
Council is supportive of this option to provide greater flexibility in the sand bypassing project. It is considered that the impact of this option on Fingal Head Beach will be minimal. It is requested that Tweed River Entrance Sand Bypassing Project considers the impact on access along the beach when designing and implementing this option.

The Motion was **Carried**

FOR VOTE - Unanimous

17 [CNR-CM] Coastal Hazards - Tweed Development Control Plan Section B25

679

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that Council adopts:

1. The Coastal Hazards - Tweed Development Control Plan Section B25, with the following provisions:

Immediate Hazard Zone

Insert a new Section 3.1.7 as follows:

3.1.7 *Redevelopment of Existing Caravan Parks and Other Existing Short Term Accommodation Facilities*

- *Redevelopment of existing caravan parks and other existing short term accommodation facilities must not result in a worse outcome insofar as the number of sites is concerned than currently lawfully exists;*
- *Redeveloped caravan park sites shall only be used as short term (ie. tourist accommodation) sites;*
- *No new permanent building shall be erected within the immediate hazard zone;*

2050 Hazard Zone

Insert a new section 3.2.7 as follows:

3.2.7 *Redevelopment of Existing Caravan Parks and Other Existing Short Term Accommodation Facilities*

- *Redevelopment of existing caravan parks and other existing short term accommodation facilities must not result in a worse outcome insofar as the number of sites is concerned than currently lawfully exists;*
- *Redeveloped caravan parks sites shall only be used as short term (ie. tourist accommodation) sites;*
- *No new permanent building shall be erected within the 2050 hazard zone.*

2100 Hazard Zone

Insert a new Section 3.3.3 as follows:

3.3.3 *Redevelopment of Existing Caravan Parks and Existing Other Short Term Accommodation Facilities*

- *Redevelopment of existing caravan parks and other existing short term accommodation facilities must not result in a worse outcome insofar as the number of sites is concerned than currently lawfully exists;*
- *Redeveloped caravan parks sites shall only be used as short term (ie. tourist accommodation) sites;*

2. The updated Tweed Coastal Hazard Lines for 2050 and 2100 finalised by the Water Research Laboratory in August 2010 for the purposes of coastal risk

management within its strategic and statutory land-use planning, in areas susceptible to coastal erosion hazard.

AMENDMENT

680

**Cr K Milne
Cr B Longland**

PROPOSED that Council adopts:

1. The Coastal Hazards - Tweed Development Control Plan Section B25.
2. The updated Tweed Coastal Hazard Lines for 2050 and 2100 finalised by the Water Research Laboratory in August 2010 for the purposes of coastal risk management within its strategic and statutory land-use planning, in areas susceptible to coastal erosion hazard.

The Amendment was **Lost**

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

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

The Motion was **Carried** - (Minute No 679 refers)

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

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

18 [CNR-CM] Condong Regional Boating Facility – Deletion from 7 Year Infrastructure and Services Plan

681

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council advertises its intention to remove the development of a Section 94 Plan and undertaking of the project for Recreational Boating Strategy Implementation and the Condong Regional Boating Facility from the 7 Year Infrastructure and Services Plan for a period of 28 days to allow public comment.

The Motion was **Carried**

FOR VOTE - Unanimous

19 [CNR-CM] Regulation of Traffic - Kellehers Road Pottsville

682

Cr K Skinner
Cr P Youngblutt

RESOLVED that Council defers this item to the December Council meeting.

The Motion was **Carried**

FOR VOTE - Unanimous

20 [CNR-CM] Concept Design for the Extension of the Tweed River Regional Museum

683

Cr P Youngblutt
Cr D Holdom

RESOLVED that Council:

1. Supports the new concept design, for the extension of the Tweed River Regional Museum Murwillumbah based on the single storey with future mezzanine designed by architect Paul Berkemeier dated 31 October 2011.
2. Proceeds with submission of Development Application for the above.

The Motion was **Carried**

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

21 [CNR-CM] Acceptance of Grant - Youth Week 2012

684

Cr W Polglase
Cr P Youngblutt

RESOLVED that Council:

1. Accepts the grant of \$1,845 from Office of Communities NSW for Youth Week 2012.
2. Completes the relevant documentation and votes the expenditure.

The Motion was **Carried**

FOR VOTE - Unanimous

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

685

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that Council:

1. Endorses the waiver of fees to the amount of \$445 for provision of the Banora Point Community Centre to the Blind & Vision Impaired Support Group (NSW Far North Coast) Inc for 2012 meetings to be held on the third Monday of each month (excluding January and December) as per the adopted Facility Hire and Use Policy and that Council's support is recognised with the following acknowledgement "This program has been supported by Tweed Shire Council".
2. Endorses the waiver of fees to the amount of \$2,101 for provision of the Tweed Heads Civic Centre South Sea Islander Room to the United Hospital Auxiliaries of NSW Inc (Tweed Heads Branch) for meetings on 6 February, 5 March, 2 April, 7 May, 4 June, 2 July, 6 August, 3 September, 2 October, 5 November, 3 December 2012 and the Auditorium on 6 August 2012 for the Annual General Meeting, 28 May for the Fashion Parade and 4 to 6 October 2012 for the Annual Fete as per the adopted Facility Hire and Use Policy and that Council's support is recognised with the following acknowledgement "This program has been supported by Tweed Shire Council".

The Motion was **Carried**

FOR VOTE - Unanimous

23 [CNR-CM] Entomological Control Report for period August to October 2011

Mayor Cr Barry Longland would like it placed on public record the Councillor's appreciation of Clive Easton's work within the Entomological area of Council.

686

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that Council receives and notes the Entomological Control Report for the period August to October 2011.

The Motion was **Carried**

FOR VOTE - Unanimous

24 [CNR-CM] Water Supply Drought Management Strategy and Water Restrictions

687

**Cr W Polglase
Cr K Skinner**

RESOLVED that:

1. The revised water restrictions as outlined in the report be placed on public exhibition for a period of eight weeks from 5 December 2011 until 31 January 2012.
2. A subsequent report summarising submissions received during the exhibition period be submitted to Council.

The Motion was **Carried**

FOR VOTE - Unanimous

LATE ITEM

688

**Cr W Polglase
Cr K Skinner**

RESOLVED that Item a24 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

a24 [CNR-CM] Building Better Regional Cities Funding Application

689

**Cr W Polglase
Cr K Skinner**

RESOLVED that Council submits applications to the Building Better Regional Cities Program in partnership with Horizon Housing Company for the projects as detailed in the report.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

25 [EO-CM] EC2011-163 for the Supply of One (1) Tool Carrier Loader with Attachments CCF Class 4: 4,000Kg>5,000Kg

690

Cr D Holdom
Cr J van Lieshout

RESOLVED that:

1. The Tender from CJD Equipment Pty Ltd for the supply of One (1) Volvo L70F Tool Carrier Loader is accepted to the value of \$264,000 exclusive of GST.
2. ATTACHMENT A be treated as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

Cr W Polglase left the meeting at 08:40 PM

The Motion was **Carried**

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

26 [EO-CM] EC2011-130 Request for Panel of Providers for the Provision of Soil Testing and Investigation Services

691

Cr D Holdom
Cr J van Lieshout

RESOLVED that:

1. That Council accepts the list of providers for the tender EC2011-130 Request for Panel of Providers for the Provision of Soil Testing and Investigation Services for a two (2) year period as included as a confidential attachment to this report.
2. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-
 - (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
ABSENT. DID NOT VOTE - Cr W Polglase

27 [EO-CM] Road Naming - Lighthouse Parade and Fingal Road, Fingal Head

692

Cr D Holdom
Cr J van Lieshout

RESOLVED that Council:

1. Advertises its intention to formally name Lighthouse Parade as running in an easterly direction from the intersection of Main Road for a distance of approximately 190m allowing one month for submissions, and
2. Advertises its intention to formally name Fingal Road as running in a westerly direction from the intersection of Main Road, Fingal Head and then southwards to the intersection with the Pacific Highway and Chinderah Bay Drive allowing one month for submissions, and
3. Notifies the relevant authorities under the provisions of the Roads (General) Regulation 1994.

The Motion was **Carried**

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

28 [EO-CM] Extinguishment of Easement to Drain Water Variable Width within Council Land - within Lot 465 in DP 1144944 and Lot 283 in DP 873663 at Terranora

693

Cr D Holdom
Cr J van Lieshout

RESOLVED that

1. Council approves the extinguishment of Easement to Drain Water Variable Width burdening Lot 283 in DP 873663 and Lot 465 in DP 1144944 and,

2. All documentation is executed under the Common Seal of Council.

The Motion was **Carried**

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

29 [EO-CM] Amendment to Section 94 Plan No. 23 - Offsite Parking

694

**Cr D Holdom
Cr J van Lieshout**

RESOLVED that:

1. Council adopts Draft S94 Plan No 23 – Offsite Parking Version 2.2 as a basis for exhibition and community discussion/consultation.
2. Draft plan Version 2.2 be exhibited as required by the Environmental Planning and Assessment Regulations.

The Motion was **Carried**

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

30 [EO-CM] Amendment to Section 94 Plan No. 7 - West Kingscliff

695

**Cr D Holdom
Cr J van Lieshout**

RESOLVED that:

1. Council adopts Draft S94 Plan No 7 – West Kingscliff Version 6.1 as a basis for exhibition and community discussion/consultation.
2. Draft S94 Plan No 7 – West Kingscliff Version 6.1 is exhibited as required by the Environmental Planning and Assessment Regulations.

The Motion was **Carried**

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

31 [EO-CM] Amendment to Section 94 Plan No. 4 - Tweed Road Contribution Plan

Cr W Polglase has returned from temporary absence at 08:42 PM

Cr J van Lieshout declared a perceived pecuniary Interest in this item, left the Chamber at 08:42 PM and took no part in the discussion or voting. The nature of the interest is that Cr van Lieshout's husband has a development interest that will incur Tweed Road Contribution costs.

696

**Cr K Skinner
Cr P Youngblutt**

RESOLVED that:

1. Council adopts Draft S94 Plan No 4 – Tweed Road Contribution Plan Version 6 as a basis for exhibition and community discussion/consultation.
2. Draft S94 Plan No 4 – Tweed Road Contribution Plan Version 6 is exhibited as required by the Environmental Planning and Assessment Regulations.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

ABSENT. DID NOT VOTE - Cr J van Lieshout

Cr J van Lieshout has returned from temporary absence at 08:43 PM

32 [EO-CM] MR142 Kyogle Road Speed Zone Review Update

697

**Cr P Youngblutt
Cr W Polglase**

RESOLVED that:

1. Council supports the proposed changes to speed limits on Main Road 142 (Kyogle Road) within Tweed Shire resulting from the Speed Zone Review by the Roads and Traffic Authority of NSW (October 2011).
2. Council officers commence installation of the revised speed zone signage in accordance with Roads and Traffic Authority of NSW Schedule of Works.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

Cr D Holdom left the meeting at 08:45 PM

33 [EO-CM] Outdoor Dining Fees

Cr K Milne declared a perceived non-significant, non-pecuniary Interest in this item, left the Chamber at 08:45 PM and took no part in the discussion or voting. The nature of the interest is that a family member is involved in the dining industry.

698

**Cr P Youngblutt
Cr W Polglase**

RESOLVED that:

1. Outdoor dining fees levied, as per Item 72 of the adopted Fees and Charges for the 2011/2012 financial year be discounted by 20% and this be back dated to 1 July 2011.
2. Council, for the purposes of inclusion in the Long Term Financial Plan, reduces the Outdoor Dining Fees by 20% for the 2011/2012 financial year only.

Cr D Holdom has returned from temporary absence at 08:47 PM

Cr D Holdom declared a perceived non-significant, non-pecuniary Interest in this item, left the Chamber at 08:48 PM and took no part in the discussion or voting. The nature of the interest is that she has a business interest in the dining industry.

The Motion was **Carried**

***FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr D Holdom, Cr K Milne***

Cr D Holdom has returned from temporary absence at 08:52 PM

Cr K Milne has returned from temporary absence at 08:52 PM

34 [EO-CM] Floodplain Management Program Grant Funding

699

**Cr P Youngblutt
Cr W Polglase**

RESOLVED that Council:

1. Formally accepts the grant offer of \$100,000 for the Coastal Creeks Floodplain Management Project from the Minister for the Environment under the State Floodplain Management Program 2011/12.

2. Transfers \$50,000 for the local matching component from the Flood Mitigation Voluntary Purchase Scheme unexpended loan funds.

The Motion was **Carried**

FOR VOTE - Unanimous

35 [EO-CM] Riverside Drive, Tumbulgum - Parking Configuration

This item was dealt with at Minute No 669.

36 [EO-CM] Cross Border Traffic Masterplan

700

Cr D Holdom

Cr P Youngblutt

RESOLVED that Council adopts the Cross Border Traffic Master Plan 2011.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne

37 [EO-CM] EC2011-012 Kirkwood Road Project Tender Assessment

This item was dealt with at Minute No 670.

REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

38 [TCS-CM] 2010/2011 Statutory Financial Reports/Audit Report

701

Cr P Youngblutt

Cr J van Lieshout

RESOLVED that Council adopts the 2010/2011 Statutory General Purpose Financial Reports and the Special Purpose Financial Reports.

The Motion was **Carried**

FOR VOTE - Unanimous

39 [TCS-CM] 2010/2011 Statutory Annual Report

702

**Cr P Youngblutt
Cr K Skinner**

RESOLVED that:

1. Council receives and notes the 2010/2011 Statutory Annual Report.
2. Copies of the 2010/2011 Statutory Annual Report are available for inspection by the public at Council's offices and on Council's website.
3. The Minister for Local Government is advised of the report's URL.

The Motion was **Carried**

FOR VOTE - Unanimous

40 [TCS-CM] 2009/2010 Comparative Information on NSW Local Government

703

**Cr P Youngblutt
Cr J van Lieshout**

RESOLVED that Council receives and notes the Division of Local Government's Comparative Information results for 2009/2010.

The Motion was **Carried**

FOR VOTE - Unanimous

41 [TCS-CM] Corporate Quarterly Report - 1 July to 30 September 2011

704

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council receives and notes the Corporate Quarterly Report as at 30 September 2011.

The Motion was **Carried**

FOR VOTE - Unanimous

42 [TCS-CM] September 2011 Quarterly Budget Review

705

**Cr W Polglase
Cr K Skinner**

RESOLVED that:

1. The Quarterly Budget Review Statement as at 30 September 2011 be adopted.
2. The expenditure and income, as summarised below and detailed within the report, be voted and adjusted in accordance with the revised total expenditure and income for the year ending 30 June 2012.

The Motion was **Carried**

FOR VOTE - Unanimous

43 [TCS-CM] Monthly Investment Report for the Period Ending 31 October 2011

706

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at 31 October 2011 totalling \$165,583,090 be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

44 [TCS-CM] In Kind and Real Donations - July to September 2011

707

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that Council notes the total donations of \$167,533.46 for the period July to September 2011.

The Motion was **Carried**

FOR VOTE - Unanimous

45 [TCS-CM] Council and Trust Meeting Dates for 2012

708

**Cr D Holdom
Cr P Youngblutt**

PROPOSED that:

1. In accordance with the Code of Meeting Practice the Council meetings and Community Access sessions for 2012 be confirmed, as follows:

Community Access	Council
19 January	24 January
16 February	21 February
15 March	20 March
12 April	17 April
10 May	15 May
14 June	19 June
12 July	17 July
16 August	21 August
20 September	25 September
18 October	23 October
15 November	20 November
6 December	11 December

2. The Reserves Trust meetings, as required, to be convened at 3.15pm prior to the Council Meeting.

AMENDMENT

709

**Cr J van Lieshout
Cr W Polglase**

RESOLVED that:

1. In accordance with the Code of Meeting Practice the Council meetings and Community Access sessions for 2012 be confirmed, as follows:

Community Access	Council
19 January	24 January
16 February	21 February
15 March	20 March
12 April	17 April
10 May	15 May
14 June	19 June
12 July	17 July
16 August	21 August
20 September	25 September

18 October 15 November 6 December	23 October 20 November 11 December
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2. Council meetings commence at 10.30am.
3. The Reserves Trust meetings, as required, to be convened at 10.15am prior to the Council Meeting.

The Amendment was **Carried**

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

AGAINST VOTE - Cr K Milne, Cr B Longland

Cr D Holdom left the meeting at 09:26 PM

The Amendment on becoming the Motion was **Carried** - (Minute No 709 refers)

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

AGAINST VOTE - Cr K Milne, Cr B Longland

ABSENT. DID NOT VOTE - Cr D Holdom

46 [TCS-CM] Local Government Elections 2012

Cr D Holdom has returned from temporary absence at 09:27 PM

710

Cr W Polglase

Cr P Youngblutt

RESOLVED that:

1. Council engages the Electoral Commission of NSW to administer its Election and Constitutional Referendums until the conclusion of the 2012 ordinary election for Councillors.
2. ATTACHMENTS A and B be treated as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains 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

47 [TCS-CM] Review of the Model Code of Conduct for Local Councils in NSW

711

Cr D Holdom
Cr J van Lieshout

PROPOSED that Council advises the Division of Local Government that it generally supports the proposed enhancements to the Model Code of Conduct and request that it takes into consideration the additional comments raised within the body of the report in light of the practical workability and administration of the Code.

AMENDMENT

712

Cr K Milne
Cr B Longland

RESOLVED that Council advises the Division of Local Government that:

1. It generally supports the proposed enhancements to the Model Code of Conduct and request that it takes into consideration the additional comments raised within the body of the report in light of the practical workability and administration of the Code, with the addition of the following:

That the provision for gifts and benefits clearly differentiates between the role of councillors in their private and public capacity.

The Amendment was **Carried**

FOR VOTE - Unanimous

The Amendment on becoming the Motion was **Carried** - (Minute No 712 refers)

FOR VOTE - Unanimous

48 [TCS-CM] Amendment to Internal Reporting (Protected Disclosures) Policy Version 1.0

713

Cr D Holdom
Cr P Youngblutt

RESOLVED that Council:

1. Rescinds the resolution at Minute Number 629, Item Number 39 - [TCS-CM] Internal Reporting (Protected Disclosures) Policy Version 1.0 - being

... that Council adopts the draft Internal Reporting (Protected Disclosures) Policy Version 1.0 and agrees to the deletion of the Internal Reporting Policy Version 1.1.

2. Adopts Internal Reporting (Public Interest Disclosures) Policy version 1.1 and agrees to the deletion of the Internal Reporting Policy Version 1.1.

The Motion was **Carried**

FOR VOTE - Unanimous

49 [TCS-CM] Tender EC2011-203 - Design and Construction of an Industrial Building (Records Storage Facility) at Lot 503 DP 1132400 No 23 Honeyeater Circuit, Murwillumbah

714

Cr D Holdom

Cr P Youngblutt

RESOLVED that:

1. Council declines to accept any of the Tenders received for EC2011-203 - Design and Construction of an Industrial Building (Records Storage Facility) at Lot 503 DP 1132400 No 23 Honeyeater Circuit, Murwillumbah, as no tender represents value for money.
2. Council enters into direct negotiations, in accordance with the Independent Commission Against Corruption (ICAC) Guidelines, with the lowest tenderer, Tinlen Pty Ltd, for the work including the potential efficiencies of Council undertaking some components of the project and subcontracting other components to other entities to ensure project timeframes are met and to provide best value for money within the available budget.
3. Council continues negotiations with the Vendor of 23 Honeyeater Circuit, South Murwillumbah comprised in Lot 503 in DP 1132400.
4. 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 likely be 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

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

50 [SUB-TCC] Minutes of the Tweed Coastal Committee Meeting held Wednesday 12 October 2011

715

Cr D Holdom
Cr P Youngblutt

RESOLVED that the:

1. Minutes of the Tweed Coastal Committee Meeting held Wednesday 12 October 2011 be received and noted; and
2. Director's recommendations be adopted as follows:

BA6. Tweed Development Control Plan

That Council notes the Tweed Coastal Committee's recommendation that temporary tourist accommodation should not be exclusively treated as exempt from provisions of DCP B25 in the Immediate Hazard Zone as there is capacity for development to occur if a risk management report can demonstrate compliance and considers this recommendation when determining the Coastal Hazards DCP.

The Motion was **Carried**

FOR VOTE - Unanimous

51 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 20 October 2011

716

Cr D Holdom
Cr P Youngblutt

RESOLVED that the:

1. Minutes of the Local Traffic Committee Meeting held Thursday 20 October 2011 be received and noted; and
2. Director's recommendations be adopted as follows:

A1 [LTC] Pearl Street Kingscliff - Removal of "No Stopping" zone

That Council replaces the existing "No Stopping" zone adjacent to the Service Station in Pearl Street, Kingscliff with 2 hour parking.

A2 [LTC] Disabled Parking - Recreation Street, Tweed Heads

That the disabled spaces adjacent to the Bridge Club and the Family Day Care Centre in the road related area next to Recreation Park located between Florence Street and Park Street be sign posted as disabled spaces.

A3 [LTC] Taxi Ranks - Stuart Street and Boundary Street, Tweed Heads

That:

1. Two taxi spaces be created at the eastern end of the existing bus zone on Boundary Street, Tweed Heads adjacent to the Twin Towns Services Club.
2. One taxi space be created on Stuart Street, Tweed Heads north of the existing bus zone adjacent to the Tweed Heads Primary School.

A4 [LTC] Tweed Coast Road, Pottsville

That:

1. A "Stop Sign" and associated line marking be installed at the intersection of Kellehers Road and Tweed Coast Road, Pottsville.
2. Council officers arrange trimming of vegetation on the approaches to the intersection of Kellehers Road and Tweed Coast Road, Pottsville and on the approaches to the beach access.
3. "No Stopping" signage be installed either side of the beach access adjacent to the intersection of Kellehers Road and Tweed Coast Road, Pottsville.
4. Council officers investigate possible alterations to the beach access stairway and ramp to improve user safety.
5. Council officers investigate the installation of additional pedestrian signage and beach access signage on Tweed Coast Road, Pottsville.
6. The "Welcome to Pottsville" sign be relocated away from the intersection of Kellehers Road and Tweed Coast Road, Pottsville.

The Motion was **Carried**

FOR VOTE - Unanimous

52 [SUBCOM] Reports from Subcommittees and/or Working Groups

The following reports from Subcommittees were distributed to Councillors for information only as they did not require a Council decision:

1. Minutes of the Aboriginal Advisory Committee Meeting held Friday 7 October 2011 (ECM 40687189).

2. Minutes of the Equal Access Committee Meeting held Wednesday 19 October 2011 (ECM 41341042).

ORDERS OF THE DAY

- 53 [NOR-Crs B Longland, D Holdom and K Skinner] [TCS-CM] Internal Reporting (Protected Disclosures) Policy Version 1.0**

This item was dealt with at Minute No 713.

- 54 [NOR-Crs K Milne, K Skinner and P Youngblutt] [PR-CM] Development Application DA10/0766 for Drainage, Shed, Stables, Horse Training Track and Fencing at Lot 1 DP 789618; No. 138 Cobaki Road Cobaki**

717

**Cr K Skinner
Cr K Milne**

PROPOSED that Item 8 Minute Number 585 **be rescinded.**

The Motion was **Lost**

FOR VOTE - Cr K Skinner, Cr K Milne

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

- 55 [NOM-Cr K Skinner] Development Application DA10/0766 for Drainage, Shed, Stables, Horse Training Track and Fencing at Lot 1 DP 789618; No. 138 Cobaki Road Cobaki**

This item lapsed as the rescission motion was lost (Minute No 717 refers).

- 56 [NOM-Cr K Milne] LEDA Complaints Report Authorisation/ Contact Details**

718

**Cr K Milne
Cr D Holdom**

PROPOSED that Council writes to LEDA Developments Pty Ltd to request whether the complaints, reports delivered by LEDA Developments to Councillors and the General Manager:

1. are identical copies
2. can be attributed to LEDA Developments, or are endorsed by LEDA as an accurate record of LEDA's position and views,

3. contain name and contact details to whom Council should respond about this report.

The Motion was **Lost**

FOR VOTE - Cr K Milne

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

57 [NOM-Cr K Milne] Complaints Report on LEDA Development from Council

The motion lapsed due to the lack of a seconder.

58 [NOM-Cr J van Lieshout] Arts Northern Rivers Board - Delegate

719

Cr J van Lieshout

Cr D Holdom

RESOLVED that Cr Joan van Lieshout be appointed as Delegate and Cr Dot Holdom as Alternate Delegate to the Arts Northern Rivers Board.

The Motion was **Carried**

FOR VOTE - Unanimous

59 [NOM-Cr W Polglase] Kingscliff Police Command Centre

720

Cr W Polglase

Cr P Youngblutt

RESOLVED that:

1. Tweed Shire Council does not support the proposed Police Command Centre in Pearl Street, Kingscliff.
2. The NSW Police Department further investigate sites that were identified by the Police Department.

The Motion was **Carried**

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

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

60 [NOM-Cr K Skinner] World Rally Championship - Economic Impact

721

Cr K Skinner
Cr W Polglase

RESOLVED that the General Manager brings back a report clearly showing the economic impact of the World Rally Championship in Coffs Harbour in 2011 in comparison to the rally held in Tweed Shire in 2009.

The Motion was **Carried**

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

AGAINST VOTE - Cr K Milne, Cr J van Lieshout

61 [NOM-Cr W Polglase] Jack Evans Boat Harbour

722

Cr W Polglase
Cr P Youngblutt

RESOLVED that Council seeks advice from the NSW Government Department at what stage are they regarding the redevelopment of Crown Land in and around Jack Evans Boat Harbour.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

QUESTIONS ON NOTICE

62 [QoN-Cr K Milne] Insurance Coverage for Community Activities in Council Buildings

QUESTION ON NOTICE:

Councillor K Milne asked is it possible for Council to include insurance coverage for community activities in Council buildings and how much would it cost Council?

The Public Officer, Mr Neil Baldwin advised that as part of the overall insurance cover, Council has an Insurance Policy - Casual and Regular Hirers, taken out with Statewide Mutual.

This policy defines a Casual Hirer as - any person or group of persons (not being a sporting body, club, association, corporation or incorporated body), who hires a Council facility for

non-commercial or non-profit making purposes, less frequently than once per calendar month or 12 times per calendar year, and

Regular Hirer as - any person or group of persons (not being a sporting body, club, association, corporation or incorporated body), who hires a Council facility for non-commercial or non-profit making purposes, more frequently than once per calendar month or 12 times per calendar year.

This insurance cover includes use at all Council owned facilities that are nominated on the Property Insurance schedule. Council's insurers have advised that there are no exemptions able to be applied to the coverage, and Casual and Regular Hirers that are outside the definition are required to take out separate cover available for community based organisations through various brokers at a cost to the organisation.

63 [QoN-Cr K Milne] Submissions from Council Employees on Development Applications

QUESTION ON NOTICE:

Councillor K Milne asked what is Council's policy on whether relevant information or submissions can be provided by Council employees in their personal capacity during a development application process and would Councillors be required to endorse any changes in this policy?

The General Manager responded no, there is no restriction on Council employees other than the requirement to comply with the conflict of interest provisions of the Code of Conduct.

64 [QoN-Cr K Milne] Kings Forest and Cobaki Lakes

QUESTION ON NOTICE:

Councillor K Milne asked:

1. Is it Council's opinion that the Kings Forest and Cobaki Lakes developments will have one of the largest future impacts on the potential for survival of the Tweed Coast Koalas and Long Nosed Potoroos?
2. Has there been any unauthorised works, or works still in question, at Cobaki Lakes or Kings Forest development sites during this Council term, and if so the details of these instances?

With regard to point 1, the General Manager responded that this is a matter for Council to determine and suggested a Notice of Motion be submitted for consideration of Council's opinion on this matter.

With regard to point 2, this question will be taken on notice and advice will be provided to Councillors in due course.

65 [QoN-Cr D Holdom] Further Outcomes from the s430 Investigation

QUESTION ON NOTICE:

Councillor D Holdom asked, following on from a question asked 19 July 2011 regarding the s430 Public Report by Mr Ross Woodward, can the General Manager or his delegate advise the newer Councillors of all of the public reports written by Council that followed on from the investigation, and provide copies to the Councillor's Web portal?

The Director Technology and Corporate Services, Mr Troy Green advised that the Section 430 investigation was the result of concerns raised by Professor Maurice Daly during the Public Inquiry hearings into Tweed Shire Council, where he wrote to the Minister for Infrastructure, Planning and Natural Resources recommending the interim appointment of a planning administrator to Tweed Shire Council under Section 118 of the Environmental Planning and Assessment Act 1979.

On 24 March 2005, the Director General approved an investigation under Section 430 of the Local Government Act into the Tweed Shire Council. The investigation was conducted by the Department of Local Government Representative Mr Ross Woodward - Deputy Director General.

Mr Woodward made two visits to Council during the course of the investigation: on 31 March 2005, and the 9 and 10 May 2005.

A Section 430 Investigation Report was released on 10 August 2005 with nine (9) recommendations.

The Investigation Report was tabled at Council's Meeting of 7 September 2005, with a full report presented to Council's Planning Committee on Wednesday 5 October 2005. The Committee report contained nine (9) recommendations, with comment on each of the nine (9) Investigation Report recommendations.

Council at its meeting of 19 October 2005 adopted the Planning Committee's nine (9) recommendations. This information was referred on 25 October 2005 to the Grafton Office of the Department of Planning for consideration where relevant, with some of the recommendations related to planning changes and in particular to the Far North Coast Strategy.

Council received advice on 1 November 2005, from Department of Planning agreeing to meeting with Council on a quarterly basis as required to discuss relevant planning issues.

A Question on Notice was tabled by Cr Milne at the Council meeting on 19 July 2011 and a response was provided by the General Manager.

A pdf file has been created of the s430 Investigation Report and subsequent related documents on the Councillor Web Portal in Chronological Order for Councillors reference. The Investigation Report and Council Reports are publicly available from Council's website.

66 [QoN-Cr D Holdom] Code of Meeting Practice - Proxy Voting

QUESTION ON NOTICE:

Councillor D Holdom asked can Cr Skinner please explain why he believed he could apply his casting vote as Mayor in light of someone else (who had declared a pecuniary Conflict of Interest at the meetings held 19 October 2010 and 1 November 2010 and 16 November 2010 and left the room at the meeting held 19 October 2010 and 16 November 2010 and was an apology at the Extraordinary Meeting held 1 November 2010) when the Code of Meeting Practice does not allow for proxy voting for anyone by anyone?

Cr Skinner responded that firstly let me say that I find it quite offensive that a councillor uses this forum to denigrate what has been a totally transparent process.

At no stage prior to using my mayoral casting vote on Byrill Creek Dam had I conversed with Cr van Lieshout on this subject. Feel free to ask her that question if you don't believe me.

I do believe however that all four conservative members of council, unlike Labor and the Greens, are fully committed to water security and to that end I used my casting vote in favour of what is the best option.

On the other hand, our present Mayor has used his casting vote when I am absolutely certain that the majority of councillors are not in support.

To this end a Council election in 2012 should clearly show what the community think is the best option for our long term water security and I trust that all intending candidates will have the courage to state their position on this very important subject.

67 [QoN-Cr D Holdom] Popularly Elected Mayor

QUESTION ON NOTICE:

Councillor D Holdom asked can Council please be advised as to how many Councils there are in NSW and by naming, list the Shires that have a popularly elected Mayor?

The Director Technology and Corporate Services, Mr Troy Green responded that there are 152 councils in NSW and as of September 2009, the total number of councils with popularly elected mayors was 33 being:

1. Ballina
2. Bellingen
3. Botany Bay
4. Broken Hill
5. Byron
6. Canada Bay
7. Canterbury
8. Cessnock
9. Coffs Harbour
10. Eurobodalla

11. Fairfield
12. Greater Taree
13. Griffith
14. Hornsby
15. Hunters Hill
16. Lake Macquarie
17. Lismore
18. Lithgow
19. Liverpool
20. Maitland
21. Manly
22. Nambucca
23. Newcastle
24. North Sydney
25. Port Macquarie - Hastings
26. Queanbeyan
27. Richmond Valley
28. Shellharbour
29. Shoalhaven
30. Sydney
31. Warringah
32. Willoughby
33. Wollongong

68 [QoN-Cr D Holdom] Clarrie Hall Dam

QUESTION ON NOTICE:

Councillor D Holdom asked can the Director Community and Natural Resources please explain why the Clarrie Hall Dam site was originally selected as the preferred site to supply an immediate augmentation need (beyond the 513ML stored at the Bray Park Weir) and future augmentation need and not the Byrrill Creek site when investigations began in securing the greater "secure yield" water source for the Tweed Shire?

The Director Community and Natural Resources, Mr David Oxenham responded that when investigations for an additional water source for the Tweed began in the 1970s, 13 sites were investigated. As more information was gathered, less desirable sites were discarded and the list of possible sites was refined. Geological investigations were undertaken at the five most preferred sites. The existing Clarrie Hall Dam site was ultimately chosen over the Byrrill Creek dam site for geological reasons.

The following timeline of geological investigations for the Tweed Augmentation Scheme highlights the process of choosing Clarrie Hall Dam ahead of the other preferred sites:

- In 1977 reconnaissance geological investigations were carried out at five potential dam sites in the Tweed Valley. The sites were located at Rocky Cutting, Terragon, Byrrill Creek and two sites at Doon Doon Creek. The investigations found that two of the sites (Byrrill Creek and "Doon Doon 4") were favoured.

- In 1978 feasibility geological investigations were undertaken at the Byrrell Creek and Doon Doon 4 sites by drilling three boreholes at each site. Both sites were found to have some geological problems, the main one being the depth of rock weathering on each abutment at Byrrell Creek.
- In 1978 and 1979 detailed foundation investigations were carried out at Doon Doon 4 using seismic survey, extensive trenching and 25 boreholes. Further geological and design work continued on at Doon Doon 4, ultimately resulting in construction of the Clarrie Hall Dam in 1983.

69 [QoN-Cr D Holdom] Electric Motor Vehicles and Charging Stations

QUESTION ON NOTICE:

Councillor D Holdom asked can Council be given an overview of what is required with regard to recharging stations, who pays for infrastructure etc, what quantity of cars would be needed to make viable in a non metropolitan shire and how many operating in NSW/Australia etc?

The Director Community and Natural Resources, Mr David Oxenham advised that it is his understanding that there are two commercially available Electric Vehicles in the 2011 Australian marketplace:

- The Electron MkVI (a modified Hyundai Getz) www.bev.com.au
- And the Mitsubishi MiEV <http://www.mitsubishi-motors.com.au/vehicles/cars/i-miev>

Features of both vehicles include:

- A range of between 140 – 160km per charge
- 0 – 60km in less than 7 seconds
- Running cost comparison: **\$4.68 / 100km** compared to **\$9.80 / 100km** for a ULP vehicle
- Price tag around \$47,000.

In terms of what is required for recharge stations I can advise that it would need to incorporate one or more power outlets and charger connected to the electricity grid via single or 3 phase power. The more rapid the recharge requirements the greater the cost of the infrastructure and requirement for 3 phase power. Suitable locations of a recharge bay would be in the CBD, shopping centres, or adjoining community facilities.

If Electric Vehicles become commercially viable, roadside service centres (petrol stations) will begin to install recharge stations. Governments including Local council's may wish to consider installing a limited number of recharge stations as an interim measure, particularly if they plan on using Electric Vehicles for operational purposes. There are >50,000 cars registered in the Tweed Shire. Electric Vehicle recharge stations aren't considered economically at this stage and it is not known what number of vehicles it would take to make it viable.

The number of Electric Vehicles on Australian roads is estimated at less than 100 at this stage. However there is likely to be rapid growth with the recent introduction of the Mitsubishi MiEV.

CONFIDENTIAL COMMITTEE

723

**Cr D Holdom
Cr P Youngblutt**

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

The Motion was **Carried**

FOR VOTE - 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 THROUGH GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

1 [CNR-CM] Sale of Lot 11 in DP 520017 - 209 Byangum Road, Murwillumbah

REASON FOR CONFIDENTIALITY:

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

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

C 68

That Council:

1. Accepts the offer for the property at 209 Byangum Road, Murwillumbah comprised in Lot 11 DP 520017, as set out in the body of the report; and
2. Executes all documentation under the Common Seal of Council.

The Motion was **Carried**

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

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

2 [EO-CM] Parks Naming - 'Junction Park'

REASON FOR CONFIDENTIALITY:

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

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

C 69

That Council advertises the naming of the park in Government Road, Tumbulgum "Junction Park" in accordance with Council's park naming guidelines, with a four week submission period.

The Motion was **Carried**

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

724

Cr W Polglase
Cr K Skinner

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 10.58pm.



Minutes of Meeting Confirmed by Council

at the

Council Meeting held on xxx

Chairman