



TWEED
SHIRE COUNCIL

Mayor: Cr B Longland

Councillors: M Armstrong (Deputy Mayor)
G Bagnall
C Byrne
K Milne
W Polglase
P Youngblutt

Minutes

Ordinary Council Meeting Thursday 17 October 2013

held at Murwillumbah Cultural and Civic Centre
commencing at 4.45pm

COUNCIL'S CHARTER

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

Tweed Shire Council has the following charter:

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

The Meeting commenced at 4.45pm.

IN ATTENDANCE

Cr B Longland (Mayor), Cr M Armstrong (Deputy Mayor), Cr G Bagnall, Cr C Byrne, Cr W Polglase and Cr P Youngblutt.

Also present were Mr Troy Green (Acting General Manager), Mr Michael Chorlton (Acting 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) 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 the Mayor.

CONFIRMATION OF MINUTES

1 [CONMIN] Confirmation of the Extraordinary Council Minutes and the Ordinary and Confidential Council Minutes of Meetings held Thursday 19 September 2013

627

**Cr M Armstrong
Cr P Youngblutt**

RESOLVED that:

1. The Minutes of the Extraordinary Council Meeting held Thursday 29 September 2013 be adopted as a true and accurate record of proceedings of that meeting.
2. The Minutes of the Ordinary and Confidential Council Meetings held Thursday 19 September 2013 be adopted as a true and accurate record of proceedings of that meeting.
3. ATTACHMENT 3 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:
 - (f) matters affecting the security of the council, councillors, council staff or council property.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

APOLOGIES

Cr Milne.

Attendee Cr K Milne has informed the General Manager that her absence is caused by illness.

628

Cr M Armstrong
Cr P Youngblutt

RESOLVED that the apology of Cr Milne be accepted and the necessary leave of absence be granted.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

DISCLOSURE OF INTEREST

Cr C Byrne declared a *Non Significant, Non Pecuniary* Interest in Item 29 [PR-CM] Section 82A Review of Development Application DA12/0498 for the Demolition of Existing Dwelling and Construction of a Three Storey Dwelling at Lot 1 DP 214686 No. 4 Marine Parade, Kingscliff. The nature of the interest is that Cr C Byrne is a neighbour of the applicant. Cr C Byrne will manage the Interest by vacating the Chamber and taking no part in the discussion or voting on the matter.

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

Nil.

SUSPENSION OF STANDING ORDERS

629

Cr B Longland
Cr M Armstrong

RESOLVED that Standing Orders be suspended for Council's Auditors, Kevin Franey and Adam Bradfield from Thomas Noble & Russell, to present the 2012/2013 Statutory Financial Reports/Audit Report.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

It was noted that Colin Wight and Ross Bell, two independent members of the Audit Committee, were present in the Public Gallery for the presentation by Thomas Noble & Russell.

RESUMPTION OF STANDING ORDERS

630

Cr C Byrne
Cr M Armstrong

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

SCHEDULE OF OUTSTANDING RESOLUTIONS

2 [SOR-CM] Schedule of Outstanding Resolutions

11 [NOM-Cr M Armstrong] Promotion of Sustainable Design

The Director Community and Natural Resources confirmed the date for the Community Summit as Saturday 16 November 2013.

The Schedule of Outstanding Resolutions was received and noted.

MAYORAL MINUTE

3 [MM-CM] Mayoral Minute for the Month of September 2013

631

Cr B Longland

RESOLVED that:

1. The Mayoral Minute for the month of September 2013 be received and noted, with the following update:
 - 4 September 2013 - Cr Byrne also attended the Teddy Bear's Picnic hosted by Tweed Heads Community Services for Child Protection Week - Recreation Park, Cnr Recreation and Florence Street, Tweed Heads.
2. The attendance of Councillors at nominated Conferences be authorised:
 - Cr Longland 2014 Australian Coastal Councils Conference, Ballina
24-26 March 2014
 - Cr Byrne Executive Certificate for Elected Members, Sydney
November/December 2013
 - Cr Armstrong Executive Certificate for Elected Members, Sydney
February/March 2014

The Motion was **Carried**

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

ORDERS OF THE DAY

4 [NOM-Cr B Longland] Lot 156 Hastings Point

632

**Cr B Longland
Cr M Armstrong**

RESOLVED that Council endorses the findings of the January 2012 Department of Planning assessment of the proposed Lot 156 concept plan as they relate to flooding impacts, environmental buffers and adverse ecological impacts and seeks to incorporate these findings into the Hastings Point Locality Based Development Code and the Tweed LEP 2012 at the earliest possibility.

The Motion was **Carried**

***FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr M Armstrong, Cr G Bagnall, Cr B Longland
AGAINST VOTE - Cr C Byrne
ABSENT. DID NOT VOTE - Cr K Milne***

5 [NOM-Cr M Armstrong] Improving Transparency of Council

633

**Cr M Armstrong
Cr B Longland**

RESOLVED that:

1. Council's Ordinary meeting in February 2014 be held at the Tweed Civic Centre South Sea Islander Room; and
2. A report for the March 2014 Ordinary Council meeting be prepared outlining the success of moving the February meeting to the Tweed Civic Centre South Sea Islander Room and outlines whether there should be further meetings held outside of the Council Chambers in Murwillumbah, other possible venues for Council meetings; and a schedule for further such meetings for 2014 and 2015.

The Motion was **Carried**

**FOR VOTE - Cr P Youngblutt, Cr M Armstrong, Cr G Bagnall, Cr B Longland
AGAINST VOTE - Cr W Polglase, Cr C Byrne
ABSENT. DID NOT VOTE - Cr K Milne**

6 [NOM-Cr M Armstrong] Graffiti Management Plan

634

**Cr M Armstrong
Cr G Bagnall**

RESOLVED that, in addition to investigating the feasibility of specified locations for graffiti walls and/or street art, Council brings forward a report outlining:

1. Strategies to engage with local youth to educate them on the costs arising from the damage caused by graffiti; and
2. The feasibility of developing a response team to assist local small businesses and landowners to clean up graffiti.

The Motion was **Carried**

**FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr M Armstrong, Cr G Bagnall, Cr B Longland
AGAINST VOTE - Cr C Byrne
ABSENT. DID NOT VOTE - Cr K Milne**

7 [NOM-Cr G Bagnall] Gravel Roads in Shire

635

**Cr G Bagnall
Cr M Armstrong**

RESOLVED that Council:

1. Prioritise each of the gravel roads in the Shire that are in need of sealing in the future.
2. Seals the dangerous gravel road at Round Mountain and any gravel roads travelled by school buses as a matter of priority.

The Motion was **Carried**

***FOR VOTE - Cr P Youngblutt, Cr M Armstrong, Cr G Bagnall, Cr B Longland
AGAINST VOTE - Cr W Polglase, Cr C Byrne
ABSENT. DID NOT VOTE - Cr K Milne***

8 [NOM-Cr K Milne] Renew Australia - Tweed Heads and Murwillumbah

636

**Cr B Longland
Cr M Armstrong**

RESOLVED that in the absence of Cr K Milne, and in accordance with the Code of Meeting Practice, this item be deferred to the November Council meeting.

The Motion was **Carried**

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

9 [NOM-Cr K Milne] Water Conservation in Greenfield Developments

637

**Cr B Longland
Cr M Armstrong**

RESOLVED that in the absence of Cr K Milne, and in accordance with the Code of Meeting Practice, this item be deferred to the November Council meeting.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

10 [NOM-Cr K Milne] Proposed Chinderah Jetty - Visual Impact Assessment

This item was dealt with in conjunction with Item 33 [CNR-CM] Chinderah Pontoon - Confirmation of Location of the Agenda.

11 [NOM-Cr K Milne] Proposed Chinderah Jetty - Seagrass Impact Assessment

This item was dealt with in conjunction with Item 33 [CNR-CM] Chinderah Pontoon - Confirmation of Location of the Agenda.

12 Notice of Motion - Late Withdrawal from Agenda

NOTICE OF MOTION:

This item was a late withdrawal from the Agenda.

13 [NOM-Cr K Milne] Special Leave for Staff Experiencing Domestic Violence

638

Cr B Longland
Cr M Armstrong

RESOLVED that in the absence of Cr K Milne, and in accordance with the Code of Meeting Practice, this item be deferred to the November Council meeting.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

QUESTIONS ON NOTICE

14 [QoN-Cr M Armstrong] Safety and Accessibility of Infrastructure Adjacent to Local Schools

QUESTION ON NOTICE:

Councillor M Armstrong asked:

In November 2012 Council endorsed the conduct of an Audit of Safety and Accessibility of Infrastructure Adjacent to Local Schools. This was deferred in December 2012 to seek the advice of the Local Traffic Committee.

Can Council advise:

1. What actions have been taken to progress the Audit of Safety and Accessibility of Infrastructure Adjacent to Local Schools?
2. What interactions with third parties with respect to progressing the Audit of Safety and Accessibility of Infrastructure Adjacent to Local Schools? and
3. When it is anticipated that a report will be received by council embodying the advice of the Local Traffic Committee to enable the completion of the Audit of Safety and Accessibility of Infrastructure Adjacent to Local Schools.

Cr B Longland temporarily left the meeting at 05:46 PM.

Cr W Polglase temporarily left the meeting at 05:46 PM.

The Director Engineering and Operations responded as follows:

1. a. Desktop investigation was undertaken to determine the scope of the audit and this was reported to Council 13 December 2012. Council then resolved to:
 1. *Defer the audit proposed in the Council Resolution of 15 November 2012 and seek the LTC advice on how to best address safety and equal access issues in the vicinity of schools.*
 2. *Further action on the audit be deferred until Council has authorised necessary expenditure pending receipt of advice referred to above.*
- b. The Local Traffic Committee (LTC) recommended that consultations be conducted with relevant stakeholders in school road safety and reported back to the LTC.
- c. The results of the consultations were reported to Council at its 16 May Council meeting.

Cr B Longland has returned from temporary absence at 05:47 PM

2. Interactions with third parties included:
 - Council's Road Safety Officer met with the Roads and Maritime Services (RMS) Regional Road User Safety Officers.
 - Through the LTC the RMS Road Safety and Traffic Services Manager provided advice.

- Council's Road Safety Officer met with the Department of Education and Communities Regional Director.
 - Council's Road Safety Officer met with the Catholic Education Road Safety Consultant who provided the report "Inquiry into School Zone Safety" 2011
 - Council's Road Safety Officer met with the Chair of the Equal Access Advisory Committee.
3. The Local Traffic Committee reported to Council at its 16 May 2013 meeting the following:

"COMMITTEE ADVICE:

That the feedback from the Committee regarding the proposed Audit of Safety and Accessibility of Infrastructure Adjacent to Local Schools be noted and considered by Council as follows:

1. *RMS Data*

The RMS has a schools database that can provide 7 different reports, some of which may be relevant to the audit request. Further advice should be sought from Council regarding the intent of the audit to see which of these reports could be utilised.

RMS holds a number of audit forms that could be used by Council should an audit go ahead.

The RMS is currently doing an audit of school crossing supervisor sites.

2. *DEC Policies*

The DEC Regional Director advised that public schools aim to comply with all relevant legislative requirements within their school properties. However this does not extend to road areas external to the school with the exception of schools that agree to resource flags at children's crossings.

3. *Independent School Policies*

The Catholic Education Commission NSW has commissioned a report "Inquiry into School Zone Safety" 2011. This report indicates that significant improvements within school zones has reduced pedestrian casualties over recent years and that further road environment changes alone are unlikely to have significant additional benefits. Road safety education is also required and road safety response strategies are best determined at the local individual school level. This approach is generally consistent with the manner in which LTC has dealt with school related road safety issues to date.

4. *Equal Access Advisory Committee*

This Committee deals with school access issues as they are raised by stakeholders. No overall audit of all school sites has been performed."

15 [QON-Cr G Bagnall] Beach Erosion

QUESTION ON NOTICE:

Councillor G Bagnall asked:

In light of the severe beach erosion at Fingal, what is the emergency contingency plan for the Hastings Point effluent disposal field if coastal erosion nears the field and has a risk assessment been carried out?

The Director Community and Natural Resources advised that no specific risk assessment has been undertaken however the Hastings Point dune disposal system sits entirely outside the immediate impact line whereas the Fingal Surf Lifesaving club is directly on this line. The Hazard study does however identify that the southern end of the dune disposal system will become compromised in 2050. In terms of contingency the following applies in case of an emergency:

- The system can be isolated so that the northern zones, which are less vulnerable, can be utilised.
- The treatment plant has an overflow pond with a capacity of 2 days.
- There is an emergency discharge point to the creek adjoining the treatment plant.

16 [QON-Cr K Milne] Federal Election Signage Compliance Matters

QUESTION ON NOTICE:

Councillor K Milne asked:

Can Council advise of the number of complaints in regard to election signs during the last Federal election for each local candidate and an estimate of the resources expended by Council in order to seek legal advice and collect unauthorised signage?

Cr W Polglase has returned from temporary absence at 05:51 PM

The Director Planning and Regulation responded that it needs to be acknowledged that Council first received a complaint about the unauthorised political signage of a candidate for the Federal seat of Richmond in April this year. A full audit, time estimate and report of every complaint and Council response received from this period until the day of the Federal election held on 7 September 2013 would take a considerable amount of resources for the officers to undertake.

In response to the initial complaint in April, the officers submitted a report to Council's meeting of 17 May 2013, for which Council adopted a policy to assist Council staff in undertaking compliance action against any unauthorised political signage in the lead up to, and immediately following the 2013 Federal election. As a further pro-active measure, Council wrote to a number of property owners with existing unauthorised signage, as well as provided an article in the Tweed Link to explain the policy unanimously adopted at the May Council Meeting.

In the period between the above action in May/June and the day of the Federal election on 7 September 2013, compliance officers from Council's Regulatory Services and Development

Assessment Units took a variety of action in response to complaints alleging unauthorised political signage, including corresponding with, and directly contacting owners of properties and candidates of the signage seeking their cooperation to remove all re-locate the offending signs. In other instances, unauthorised signs located in Council road reserves were impounded.

The complaints received against unauthorised signage affected all the main candidate parties for the Federal seat of Richmond, including the Nationals, The Australian Labor Party, the Greens and the Palmer United Party.

Council spent a sum of \$809.60 GST Inclusive in seeking advice from one of its legal providers relating to unauthorised political signage in August 2013. This advice clarified that the provisions of State Environmental Planning Policy No. 64 allow for more than one poster to be displayed on an allotment of land, subject to the land owners consent, and compliance with the other relevant SEPP signage restrictions. The SEPP overrides Council's adopted policy on political signage from the 17 May 2013 Council Meeting.

It is recommended that Council's policy be revised to accord with the SEPP No. 64 requirements prior to the next form of election affecting the Shire, which is likely to be the next NSW State Government elections in March 2015.

17 [QON-Cr K Milne] Artificial Wetland Polishing for Sewerage

QUESTION ON NOTICE:

Councillor K Milne asked:

Can any of Council's sewerage treatment plants incorporate the creation of artificial wetland areas for further polishing of waste water before it enters the river system?

The Director Community and Natural Resources advised that wetlands are generally used in locations where, there is significant land available, the level of treatment is less critical, the discharge of the effluent to the land provides an environmental benefit and a cheaper solution is preferred. All of Councils Wastewater Treatment Plants treat to a high standard suitable for discharge to sensitive waterways. I don't believe wetlands would be suitable in providing treatment for Councils' Wastewater Treatment Plants.

18 [QON-Cr K Milne] Cost of Fluoridation

QUESTION ON NOTICE:

Councillor K Milne asked:

How much does it cost Council to fluoridate the water supply per annum for chemicals, labour, other direct and indirect operating costs, plant, equipment and depreciation?

The Director Community and Natural Resources advised the direct cost to Council of adding fluoride to the water supply is \$37,000 per annum for chemical and labour.

The indirect cost are:

Operator Training	\$2000 per year
Management Oversight	\$1400 per year
Depreciation of	\$3000 per year
Proportional Activity Based Costing	\$7,500

RECEIPT OF PETITIONS

19 [ROP] Receipt of Petitions

639

Cr B Longland
Cr M Armstrong

RESOLVED that the following tabled Petitions be received and noted:

1. To restore and maintain the water features of the reviulet and its pond in the park along Seabreeze Boulevard, Seabreeze Estate, Pottsville (653 signatures).
2. To plant the riverbank in Tumbulgum Road, Murwillumbah to provide a green visual barrier of the IGA-McDonalds development (33 signatures).

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

REPORTS THROUGH THE ACTING GENERAL MANAGER

REPORTS FROM THE ACTING GENERAL MANAGER

20 [GM-CM] Review of Documents with Findings - LEDA Developments

640

Cr B Longland
Cr C Byrne

RESOLVED that Item 20 [GM-CM] Review of Documents with Findings - LEDA Development be dealt with later in the Agenda.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

641

Cr G Bagnall
Cr P Youngblutt

RESOLVED that Council notes the September 2013 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

22 [PR-CM] Development Application DA13/0294 for a Change of Use of 19 Tourist Accommodation Units to Dual Use Shop Top Housing and Serviced Apartments at Lots 11, 12, 13, 85, 86, 87, 88, 89, 17, 19, 92, 93, 94, 25, 99, 100, 28, 31 and 107 in SP 79995, Nos.

642

Cr G Bagnall
Cr P Youngblutt

RESOLVED that Development Application DA13/0294 for a change of use of 19 tourist accommodation units to dual use shop top housing and serviced apartments at Lots 11, 12, 13, 85, 86, 87, 88, 89, 17, 19, 92, 93, 94, 25, 99, 100, 28, 31 and 107 in SP 79995, Nos. 14-18 and 20-22 Stuart Street, Tweed Heads be approved subject to the following conditions:

GENERAL

1. This Development Application approves the change of use of 19 tourist accommodation units within the Stage 1 ellipsoid towers of the Tweed Ultima into 19 dual use units that can be used as either residential units (defined as shop top housing) or tourist accommodation units (defined as serviced apartments). The 19 affected units are as follows:
 - Level 2 - Lots 11, 12, 13, 85, 86, 87, 88, and 89 in SP 79995.

- Level 3 - Lots 17, 19, 92, 93, and 94 in SP 79995.
- Level 4 - Lots 25, 99, and 100 in SP 79995.
- Level 5 - Lots 28, 31 and 107 in SP 79995.

except where varied by the conditions of this consent.

[GEN0005]

2. The Ultima Stage 1 development is required to have the following parking provisions:

- 55 Commercial Spaces in SP 80159;
- 208 Accommodation Spaces in SP 79995 (16 of which have to be accessible for visitor parking).

Stacked parking spaces must be allocated to the same Lot Number.

The parking spaces are to be allocated within the respective body corporate and include parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

[GENNS01]

3. Section 94 Contributions

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

Prior to the 19 units subject of this application being used for residential purposes (and within 3 months of the date of this consent) all Section 94 Contributions must have been paid in full and the Council must have sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

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

- (a) Shirewide Library Facilities:
- | | |
|-------------------------------------|---------|
| 13.4577 ET @ \$838 per ET | \$11278 |
| (\$792 base rate + \$46 indexation) | |
| S94 Plan No. 11 | |
- (b) Bus Shelters:
- | | |
|-----------------------------------|-------|
| 13.4577 ET @ \$64 per ET | \$861 |
| (\$60 base rate + \$4 indexation) | |
| S94 Plan No. 12 | |
- (c) Eviron Cemetery:
- | | |
|-------------------------------------|--------|
| 13.4577 ET @ \$123 per ET | \$1655 |
| (\$101 base rate + \$22 indexation) | |

	S94 Plan No. 13	
(d)	Extensions to Council Administration Offices & Technical Support Facilities	
	2.4966 ET @ \$1860.31 per ET	\$4644.45
	(\$1759.9 base rate + \$100.41 indexation)	
	S94 Plan No. 18	
(e)	Cycleways:	
	6.1921 ET @ \$473 per ET	\$2929
	(\$447 base rate + \$26 indexation)	
	S94 Plan No. 22	
(f)	Regional Open Space (Casual)	
	6.2377 ET @ \$1091 per ET	\$6805
	(\$1031 base rate + \$60 indexation)	
	S94 Plan No. 26	
(g)	Regional Open Space (Structured):	
	13.4577 ET @ \$3830 per ET	\$51543
	(\$3619 base rate + \$211 indexation)	
	S94 Plan No. 26	

[GENNS02]

4. Within 3 months of the date of this consent the applicant shall create 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) The western Tweed Ultima towers are (Stage 1) are to have parking allocated as follows, 55 commercial spaces and 208 accommodation spaces (16 of which have to be accessible for visitor parking) and all stacked parking spaces must be allocated to the same Lot Number.
 - (b) The clear nomination of the lawful development nature of each of the 160 units. This will need to delineate between those units which are tourist accommodation units only, those units which are multi dwelling housing only (residential) and those units which are flexible and can be used for either multi dwelling housing (residential) or tourist accommodation.

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

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

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

[GENNS03]

5. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. It is the applicant's responsibility to ensure the building complies with all relevant provisions of the Building Code of Australia.

[GENNS04]

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

23 [PR-CM] Section 96 Application DA08/0907.07 - Amendment to Development Consent DA08/0907 for Change of Use of Tourist Accommodation Units to Flexible Multi Dwelling Housing Units or Tourist Accommodation Units, Stratum Subdivision and Temporary At-Grade Parking area, Nos. 14-18 and 20-22 Stuart Street, Tweed Heads

643

Cr G Bagnall
Cr P Youngblutt

RESOLVED that Section 96 Modification DA08/0907.07 for an amendment to Development Consent DA08/0907 for change of use tourist accommodation units to flexible multi dwelling housing units or tourist accommodation units, stratum subdivision and temporary at-grade parking area at Lot 1 SP 80159 and Lots 9, 10, 15, 91, 21, 97, 98, 27, 29, 30, 103, 104, 105, 33, 35, 36, 109, 110, 111, 41, 42, 116, 117, 46, 47, 48, 121, 122, 51, 52, 53, 54, 127, 128, and Lot 129 in SP 79995 Nos. 14-18 and 20-22 Stuart Street, Tweed Heads be approved subject to the following amendments being made to the consent:

1. Amend the description of the development to read as follows:

DA08/0907 for change of use tourist accommodation units to flexible multi dwelling housing units or tourist accommodation units and the associated stratum subdivision to allocate car parking at Stage 1 Tweed Ultima at Lot 1 SP 80159 and Lots 9, 10, 15, 91, 21, 97, 98, 27, 29, 30, 103, 104, 105, 33, 35, 36, 109, 110, 111, 41, 42, 116, 117, 46, 47, 48, 121, 122, 51, 52, 53, 54, 127, 128 and Lot 129 in SP 79995 Nos. 14-18 & 20-22 Stuart Street, Tweed Heads.

2. Delete Condition 1 and replace with new Condition 1A which reads as follows:

1A. The development shall be completed in accordance with:

- The Statement of Environmental Effects prepared by Darryl Anderson Consulting dated July 2008 except where varied by the amended S96 Applications as detailed in Darryl Anderson Consulting letters dated 16 September 2008 (DA08/09070.5), 23 April 2009 (DA08/0907.06), and 3 July 2013 (DA08/0907.07);

- Proposed Stratum Subdivision Plan (in relation to Stage 1 of Ultima) Nos 8431-22 (Sheets 1-6) prepared by Michel Group Services and dated 14/06/2013;

except where varied by the conditions of this consent.

[GEN0005]

3. Delete Condition 3A, 3B and 3C and replace these with new condition 3D which reads as follows:

3D. This Development Application (being a combination of the original DA08/0907, S96 DA08/0907.05, S96 DA08/0907.06 and S96 DA08/0907.07) approves the change of use of 35 tourist accommodation units within the ellipsoid towers of the Tweed Ultima into 35 flexible units that can be used as either multi dwelling housing units (shop top housing) or tourist accommodation units (serviced apartments). The 35 affected units are as follows:

- Level 2 - Lots 9 and 10 in SP 79995
- Level 3 – Lots 15 and 91 in SP 79995
- Level 4 – Lots 21, 97, and 98 in SP 79995
- Level 5 – Lots 27, 29, 30, 103, 104, and 105 in SP 79995
- Level 6 – Lots 33, 35, 36, 109, 110, 111 in SP 79995
- Level 7 – Lots 41, 42, 116, and 117 in SP 79995
- Level 8 – Lots 46, 47, 48, 121 and 122 in SP 79995
- Level 9 – Lots 51, 52, 53, 54, 127, 128 and 129 in SP 79995

[GENNS01]

4. Delete Condition 4A which related to the at-grade parking area.
5. Delete Condition 5 which related to the at-grade parking area.
6. Delete Condition 6 and replace it with Condition 6A which reads as follows:

6A The Ultima development is required to have the following parking provisions:

Stage 1 - Western Ellipsoid Towers

Stage 1 (comprising the two western ellipsoid towers) shall provide parking as follows:

- 55 Commercial Spaces in SP 80159;
- 208 Accommodation Spaces in SP 79995 (16 of which have to be accessible for visitor parking).

Stacked parking spaces must be allocated to the same Lot Number.

The parking spaces are to be allocated within the respective body corporates and include parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

[GENNS04]

7. Delete Condition 22 and replace it with Condition 22A which reads as follows:

22A. 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) DELETED
- (c) The western ellipsoid towers (Stage 1 of Ultima) are to have parking allocated as follows: 55 commercial spaces in SP 80159 and 208 Accommodation Uses in SP 79995 (16 of which have to be accessible for visitor parking) and all stacked parking spaces must be allocated to the same Lot Number.
- (d) The clear nomination of the lawful development nature of each of the 160 units. This will need to delineate between those units which are tourist accommodation units only, those units which are multi dwelling housing only (residential) and those units which are flexible and can be used for either multi dwelling housing (residential) or tourist accommodation.

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

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

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

[PSC0835]

8. Delete Condition 25 and replace it with Condition 25A which reads as follows:

25A Prior to issuing the subdivision certificate the applicant is to have:

- Surrendered that part of Development Consent No. DA456-10-2003 relating to any areas now redundant as a consequence of DA08/0907 and/or any S96 approved by the Department of Planning. Such surrender shall be by lodgement of the prescribed information, suitably executed, as required by Section 80A(1)(b) of the Environmental Planning and Assessment Act, 1979 (as amended) and Clause 97 of the Environmental Planning and Assessment Regulations, 2000

[PSCNS01]

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

- 24 [PR-CM] Development Application DA13/0132 - Change of Use (First Approved Use) to Surfboard Manufacturing, Extension of Mezzanine Level and Associated Signage at Lot 19 SP 80033, No. 19/23-25 Ourimbah Road, Tweed Heads

644

Cr M Armstrong
Cr G Bagnall

RESOLVED that Development Application DA13/0132 for a change of use (first approved use) to surfboard manufacturing, extension of mezzanine level and associated signage at Lot 19 SP 80033 No. 19/23-25 Ourimbah Road, *Tweed Heads* be deferred to the November Council meeting.

The Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr M Armstrong, Cr G Bagnall, Cr B Longland

AGAINST VOTE - Cr C Byrne

ABSENT. DID NOT VOTE - Cr K Milne

- 25 [PR-CM] Development Application DA13/0247 for a Dual Use of Existing Dwelling (Tourist Accommodation) at Lot 21 DP 1030322 No. 39 Collins Lane, Casuarina

645

Cr P Youngblutt
Cr M Armstrong

RESOLVED that Development Application DA13/0247 for a dual use of existing dwelling (tourist accommodation) at Lot 21 DP 1030322 No. 39 Collins Lane, Casuarina be granted in-principle support and a report to be brought back to a further Council meeting with recommended conditions of consent for Council to determine.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr K Milne

- 26 [PR-CM] Development Application DA13/0392 for Nine Lots into Two Lot Subdivision at Lots 13, 15, 16, 17, 24 DP 860153 and Lots 5, 6, 7, 13 DP 860666 No. 324 Reserve Creek Road, Kielvale

646

Cr G Bagnall
Cr M Armstrong

RESOLVED that Development Application DA13/0392 for Development Application DA13/0392 for Nine Lots into Two Lot Subdivision at Lots 13, 15, 16, 17, 24 DP 860153 and Lots 5, 6, 7, 13 DP 860666 No. 324 Reserve Creek Road, Kielvale be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan of Proposed Subdivision (Sheets 1 and 2), prepared by NC White and Associates and dated 17/06/2013, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0125]

3. The approved subdivision/development shall not result in any clearing of native vegetation without prior approval from the relevant authority.

[GEN0290]

4. 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:

Vehicular access - the access location for proposed Lot 1 will require construction of a sealed driveway, from the road carriageway to 3m inside the property boundary.

The work shall be undertaken and completed generally in accordance with TSC standard drawing SD011.

A gate shall also be installed for the driveway in the boundary fence.

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

DURING CONSTRUCTION

5. 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]

USE

6. A roof catchment water supply source shall be provided for domestic purposes where a Council reticulated supply is unavailable. Any domestic water supply roof collection system should be fitted with a first flush device. Minimum storage tank capacity shall be 20,000 litres for the first bedroom, then an additional 15,000 litres per bedroom thereafter and shall be in addition to any water volume requirements stipulated by the NSW Rural Fire Services. Installation, water collection, and maintenance of rainwater tanks used for drinking purposes must comply with NSW Health requirements.

[USE1470]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

7. Section 94 Contributions

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

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 94 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

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

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

(a) Tweed Road Contribution Plan:

6.5 Trips @ \$1871 per Trips \$12162

(\$1807 base rate + \$64 indexation)

S94 Plan No. 4

Sector10_4

(b) Open Space (Casual):

1 ET @ \$543 per ET \$543

(\$502 base rate + \$41 indexation)

S94 Plan No. 5

(c) Open Space (Structured):

1 ET @ \$622 per ET \$622

(\$575 base rate + \$47 indexation)

S94 Plan No. 5

(d) Shirewide Library Facilities:

1 ET @ \$838 per ET \$838
(\$792 base rate + \$46 indexation)
S94 Plan No. 11

(e) Eviron Cemetery:

1 ET @ \$123 per ET \$123
(\$101 base rate + \$22 indexation)
S94 Plan No. 13

(f) Community Facilities (Tweed Coast - North)

1 ET @ \$1389 per ET \$1389
(\$1305.6 base rate + \$83.4 indexation)
S94 Plan No. 15

(g) Extensions to Council Administration Offices
& Technical Support Facilities

1 ET @ \$1860.31 per ET \$1860.31
(\$1759.9 base rate + \$100.41 indexation)
S94 Plan No. 18

(h) Regional Open Space (Casual)

1 ET @ \$1091 per ET \$1091
(\$1031 base rate + \$60 indexation)
S94 Plan No. 26

(i) Regional Open Space (Structured):

1 ET @ \$3830 per ET \$3830
(\$3619 base rate + \$211 indexation)
S94 Plan No. 26

[PSC0175]

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

[PSC0825]

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

A Restriction on Title is to be created over Lot 1 stating that:

- The lot is not connected to a reticulated water service, and that future owners will need to make alternative arrangements for a potable water supply.
- Future dwellings will need to provide rainwater tanks with a minimum capacity of 20,000 litres.
- The lot is not connected to a reticulated sewer system, and any dwelling will need to provide an on-site sewer management system to the satisfaction of Tweed Shire Council.

- Any proposed dwelling to be erected on this lot shall be located in the nominated building envelope approved by Development Consent DA13/0392. Alternative locations can be considered but will require separate approval of Council.

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.

[PSC0835]

10. Submit to Council's Property Officer for approval an appropriate plan indicating the street/road address number to both proposed and existing lots. In accordance with clause 60 of the Surveying and Spatial Information Regulation 2012 the Plan of Subdivision (Deposited Plan) shall show the approved street address for each new lot in the deposited plan.

Furthermore, prior to the issue of a Subdivision Certificate, each lot shall have its' address number displayed in accordance with Council's procedure on street numbering.

[PSC0845]

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

The following information must accompany an application:

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

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

[PSC0885]

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

[PSC0945]

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

[PSC1165]

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

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

[PSC1175]

15. Prior to the issuing of the subdivision certificate the applicant is to obtain an approval to operate the on-site sewage management facility on proposed Lot 2. In the event of more than one on-site sewage management facility, individual approvals to operate are required for each on-site sewage management facility. An approval to operate is issued under Section 68 of the *Local Government Act 1993*, and must be obtained from Council.
16. Prior to the issuing of the subdivision certificate the applicant is to provide a written statement regarding the suitability of proposed Lot 1 to accommodate an on-site sewage management facility. The statement is to be prepared by a suitably qualified on-site sewage management design and assessment consultant.

[PSCNS01]

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

1. The development proposal is to comply with the subdivision layout identified on the drawing prepared by NC White and Associates numbered 21047DE/1B, dated 17 June 2013.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

27 [PR-CM] Development Application DA13/0115 for a Two Lot Leasehold Subdivision at Lot 17 DP 833570 Nos. 26-74 Chinderah Bay Drive, Chinderah

647

Cr G Bagnall
Cr M Armstrong

RESOLVED that Development Application DA13/0115 for a two lot leasehold subdivision at Lot 17 DP 833570 Nos. 26-74 Chinderah Bay Drive, Chinderah 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 WS_PLHD_1980_01 (Proposed Leasehold Subdivision) prepared by Planit Consulting and dated December 2012, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0125]

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

[GEN0135]

4. No preferred koala feed trees (*Eucalyptus robusta*, *Eucalyptus tereticornis*, *Eucalyptus microcorys* and *Eucalyptus propinqua*) may be cleared without specific approval of the General Manager or delegate.

[GENNS01]

5. The applicant is advised that the two lot subdivision associated with DA13/0115 will have the effect of extinguishing any existing dwelling entitlement on existing lot 17 DP 833570 / proposed lot 1 and the existing dwelling shall have to rely on existing use rights within proposed Lot 1.

[GENNS02]

6. 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.

In this regard the applicant is required to construct a sewer service for proposed Lot 2 via construction of a sewer rising main (SRM) within Waugh Street, generally in accordance with the 'Sewer Concept Plan P.15.56 / Sk1' by Cozens Regan Williams Prove submitted to Council on 18.9.2013. Further, the applicant is required to submit appropriate applications to Council for approval as follows:

- a. A 'Private Ejection Pump' form;
- b. A 'Connection to Sewer' form;
- c. A Trade Waste Application form.

[GENNS03]

7. Please note that Section 64 Developer Contributions have been applied to this Development Application to ensure that proposed Lot 2 has access to services. The Section 96 application to modify the consent (DA04/1166.04) in association with the truck storage depot will have additional Section 64 Developer Contributions payable to cater for the land use.

[GENNS04]

PRIOR TO COMMENCEMENT OF WORK

8. The proponent shall accurately locate and identify any existing sewer main (including rising mains), stormwater line or other underground infrastructure within or adjacent to the site and in the vicinity of the proposed SRM works. Council shall be advised of the location and depth of any such infrastructure prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

DURING CONSTRUCTION

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

[DUR0995]

10. 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]

11. 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]

12. 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]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

[PSC0005]

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

Prior to the issue of a Subdivision Certificate, all Section 64 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Water DSP4:	1 ET @ \$12575 per ET	\$12575
-------------	-----------------------	---------

Sewer Kingscliff: 1 ET @ \$6042 per ET \$6042

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

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

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

[PSC0165]

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

The bond shall be based on 5% of the value of the sewer rising main works (or minimum value as tabled in Council's fees and charges current at the time of payment - currently \$1910) which will be held by Council for a period of 6 months from the date on which the plan of subdivision is registered.

It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

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

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

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

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

[PSC0735]

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

[PSC0825]

18. Prior to the issue of the Subdivision Certificate, certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning And Design (BPAD) certified practitioner, must be submitted to the PCA, confirming that the subject development complies with the Rural Fire Service's General Terms of Approval imposed under Section 100B of the Rural Fires Act 1997 on the consent.

[PSC0830]

19. The creation of easements for services, rights of carriageway and restrictions as to user (including restrictions associated with planning for bushfire) 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.

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.

[PSC0835]

20. Submit to Council's Property Officer for approval an appropriate plan indicating the street/road address number to both proposed and existing lots. In accordance with clause 60 of the Surveying and Spatial Information Regulation 2012 the Plan of Subdivision (Deposited Plan) shall show the approved street address for each new lot in the deposited plan.

[PSC0845]

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

The following information must accompany an application:

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

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

[PSC0885]

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

[PSC0925]

23. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to Proposed Lot 2 in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications and the Construction Certificate approval.

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

[PSC1115]

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

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

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

[PSC1175]

25. Prior to the issuing of the subdivision certificate, the applicant is to submit a potential groundwater contamination assessment that considers previous potentially contaminating activities at the depot. The potential groundwater contamination assessment is to be to the satisfaction of the General Manager or his delegate.

Prior to the issuing of the subdivision certificate, the applicant is to demonstrate that all conditions of development consent DA04/1166.04 have been complied with.

[PSCNS01]

26. Prior to the issue of the Subdivision Certificate for this Development Application (DA13/0115), the relevant Section 64 Developer Contributions for both this Development Application and for the Section 96 Modification for the truck storage depot (DA04/1166.04) must have been paid to Council.

27. Prior to the issue of the Subdivision Certificate, the applicant is to submit a separate application for sewer connection to Council. Proposed Lot 2 is not to be connected to sewer until the relevant application has been approved by Council. The submitted application shall include details of (but not limited to): the proposed route of the sewer; proposed earthworks and construction details; and details of vegetation removal if required.

[PSCNS01]

28. Prior to the issue of a Subdivision Certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works completed under the Sec.68 sewer approval for the sewer rising main works.

[PSCNS02]

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

1. The development proposal is to comply with the subdivision plan, titled Proposed Leasehold Subdivision, drawing number WS_PLHD_1980_01, dated December 2012.

General Advice - Consent Authority to Note

2. This Bush Fire Safety Authority is based on the requirement that proposed leasehold lot 2 is used as a transport depot that does not include any residential or habitable land use.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

-
- 28 [PR-CM] Development Application D90/0436.07 for an amendment to Development Consent D90/0436 for the Erection of a Tavern and Nine Shops

648

Cr M Armstrong

Cr G Bagnall

RESOLVED that Development Application D90/0436.07 for an amendment to Development Consent D90/0436 for the erection of a tavern and nine shops at Lot 171 DP 629328 No. 28-40 Overall Drive, Pottsville be deferred to a Workshop.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

29 [PR-CM] Section 82A Review of Development Application DA12/0498 for the Demolition of Existing Dwelling and Construction of a Three Storey Dwelling at Lot 1 DP 214686 No. 4 Marine Parade, Kingscliff

Cr C Byrne declared a *Non Significant, Non Pecuniary* Interest in Item 29. The nature of the interest is that Cr C Byrne is a neighbour of the applicant. Cr C Byrne will manage the Interest by vacating the Chamber and taking no part in the discussion or voting on the matter.

649

Cr M Armstrong
Cr G Bagnall

PROPOSED that:

1. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:
 - (a) personnel matters concerning particular individuals (other than councillors).
2. The Section 82A Review of Development Application DA12/0498 for the demolition of existing dwelling and construction of a three-storey dwelling at Lot 1 DP 214686 No. 4 Marine Parade, Kingscliff be refused for the following reasons:
 1. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated that compliance with the development standard as being unreasonable or unnecessary in accordance with State Environmental Planning Policy No. 1 – Development Standards:
 - The impact of the additional storey incorporating a roof top deck has not been adequately justified.
 2. Pursuant to Section 79C(1)(b) the development proposal has not demonstrated acceptable impacts on the built environment:
 - The development is considered to have negative impact on the amenity of the adjoining property to the southwest.
 3. Pursuant to Section 79C(1)(a)(iii) the development has not demonstrated compliance with Tweed Shire Council Development Control Plan 2008 Section A1 in particular:

- The development proposal exceeds the nine (9) metre height limit.

The Motion was **Lost**

FOR VOTE - Cr M Armstrong, Cr G Bagnall

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

ABSENT. DID NOT VOTE - Cr K Milne, Cr C Byrne

650

Cr W Polglase

Cr P Youngblutt

RESOLVED that Council supports in-principle approval and conditions be brought forward to the November Council meeting.

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

AGAINST VOTE - Cr G Bagnall

ABSENT. DID NOT VOTE - Cr K Milne, Cr C Byrne

Cr C Byrne has returned from temporary absence at 06:16 PM

30 [PR-CM] Application for a Site Compatibility Certificate for Seniors Housing Development Lot 13 DP 868620, Cudgen Road Cudgen

651

Cr G Bagnall

Cr M Armstrong

RESOLVED that Council, in respect of the Application for a Site Compatibility Certificate (SCC) for Seniors Housing Development on premises Lot 13 DP 868620 Cudgen Road, Cudgen, writes to the NSW Department of Planning and Infrastructure seeking additional time to review the SCC documentation, and provide more detailed comment through a further report to Council, outlining the broader strategic planning implications of this development.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr K Milne

PROCEDURAL MOTION

652

Cr G Bagnall

Cr M Armstrong

RESOLVED that the following agenda items be dealt with en-globo - 34, 35, 36, 37, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 53, 54, 57.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

34 [CNR-CM] Project Update - Clarrie Hall Dam Spillway Flood Safety Upgrade Construction - EC2012-191

653

Cr G Bagnall
Cr M Armstrong

RESOLVED That, in relation to EC2012-191 Clarrie Hall Dam Spillway Flood Safety Upgrade Construction:

1. Council notes the quarterly reporting of approved variations for the project.
2. Council notes the potential variations currently known for the project (reported in Confidential Attachment 1).
3. Council approves the resulting estimated revised contract value (reported in Confidential Attachment 1).
4. The General Manager be given delegated authority to approve variations to the maximum value of \$150,000 above the estimated revised contract value (reported in Confidential Attachment 1), and those variations continue to be reported to Council on a quarterly basis.
5. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2)(c) and (d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

35 [CNR-CM] EC2010-135 Removal and Disposal/Reuse of Biosolids

654

Cr G Bagnall
Cr M Armstrong

RESOLVED that:

1. Council approves a two year extension to the contract duration for EC2010-135. The revised completion date is therefore 27 March 2015.
2. The Schedule of Rates (as amended under the Contract Extension conditions) from Arkwood Organic Recycling be accepted as follows:
 - Rate 1 - \$39.76 per wet tonne (excl GST) for Biosolids disposed within Tweed Shire or surrounding Shires (Byron, Lismore, Ballina, Beaudesert & Gold Coast)
 - Rate 2 - \$65.57 per wet tonne (excl GST) for Biosolids disposed outside of the Shires listed in Rate 1.
3. Council approves an annual budget amount of \$400,000 incl GST for EC2010-135 until the completion of the contract.
4. The General Manager is given delegated authority to approve variations up to 10% of the initial contract budget to a maximum of \$150,000 and those variations be reported to Council following completion of the tendered works/services.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

36 [CNR-CM] In Kind Support - Waiving of Royalties on Gravel from Council Quarry for Council Project at Terranora Tennis Courts

655

Cr G Bagnall
Cr M Armstrong

RESOLVED that Council waives the royalty on materials being provided from the Council owned Quirks Quarry which is being supplied to upgrade the Terranora tennis courts.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

37 [CNR-CM] Graffiti Walls

656

Cr G Bagnall
Cr M Armstrong

RESOLVED that Council:

1. Identifies and engages with appropriate stakeholders to ascertain interest in and any concerns associated with a graffiti art program as a preventative measure against graffiti vandalism.
2. Provides limited advice, as per option 2 of the report, to any interested private asset owners in relation to graffiti art on private assets.
3. Formally acknowledges the inside of the Murwillumbah levee wall as a legal space for graffiti art.
4. Attempts to replicate the informal facilitation of the Murwillumbah levee wall (by local artist and business owner Tony Lawrence) in other communities in the Shire with identified problems of graffiti vandalism.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

39 [CNR-CM] EC2013-173 and EC2013-174 Venue Services

657

Cr G Bagnall
Cr M Armstrong

RESOLVED that Council awards the following Contracts for the period of a three year term from 1 November 2013 until 31 October 2016 with the option of a further two year extension:

1. EC2013-173 Tweed Heads Civic Centre, Library, Offices, Auditorium and South Sea Islander Room - Venue Booking, Venue Services and Cleaning Services for \$2970.00 per fortnight to Elliot and Son Venue Management.
2. EC2013-174 Murwillumbah Cultural Centre Auditorium, Canvas and Kettle and Kitchen Venue Services, for \$2159.00 per fortnight to Elliot and Son Venue Management.
3. ATTACHMENTS 1-5 are CONFIDENTIAL in accordance with Section 10A(2) (d) of the Local Government Act 1993, because they contain:
 - (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 K Milne***

40 [CNR-CM] Request for Auditorium Use - Tweed Heads Civic Centre

658

**Cr G Bagnall
Cr M Armstrong**

RESOLVED that:

1. Council funds the venue fee for the fundraising event for the Jamieson family to be held in the Tweed Civic Centre auditorium on 26 October 2013.
2. The venue fee be funded from the Community Development program.

The Motion was **Carried**

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

41 [CNR-CM] Proposed Planning Agreement for the Cobaki Lakes Development

659

**Cr G Bagnall
Cr M Armstrong**

RESOLVED that the Submission on Draft Planning Agreement between Minister for the Environment and Chief Executive of Office of Environment and Heritage and Leda Manorstead Pty Limited for the Cobaki Lakes Development be endorsed and submitted as required.

The Motion was **Carried**

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

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

42 [EO-CM] Tweed Coast Road - Road Widening

660

**Cr G Bagnall
Cr M Armstrong**

RESOLVED that Council:

1. Approves the acquisition of approximately 56m² from Lot 1 DP 312920 for the widening of Tweed Coast Road;
2. Approves the quantum of compensation agreed upon as referred to in the body of the report; and
3. Executes all documentation under the Common Seal of Council.

The Motion was **Carried**

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

43 [EO-CM] Lease to Northern Rivers Childcare Service - Park Street, Tweed Heads

661

**Cr G Bagnall
Cr M Armstrong**

RESOLVED that Council:

1. Approves a five year lease to Northern Rivers Childcare Services Inc for part of Lot 1 DP 1082080 being premises at 4 Park Street, Tweed Heads at the rental identified in the report with annual 2% increases; and
2. Executes all documentation under the Common Seal of Council.

The Motion was **Carried**

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

44 [EO-CM] Bruce Chick Park

662

Cr G Bagnall

Cr M Armstrong

RESOLVED that Council adopts Option 4 (b) as detailed in this report as its preferred option for the future management of Bruce Chick Conservation Park and place on public exhibition with supporting information and invite submissions, for a period of 28 days.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

45 [EO-CM] EC2013-175 Supply of Bitumen Emulsion

663

Cr G Bagnall
Cr M Armstrong

RESOLVED that:

1. Council awards the contract EC2013-175 Supply of Bitumen Emulsion to Downer EDI Pty Ltd for a two (2) year period from 1 November 2013 until 31 October 2015. Supply rates are subject to rise and fall and linked to the General Market Price for C170 Bitumen ex BP (Qld) list price currently at \$1056.75 / Tonne (GST Excl).
2. The General Manager is given delegated authority to approve variations up to 10% of the initial contract sum to a maximum of \$150,000 and those variations be reported to Council following completion of the tendered works/services.
3. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A (2) of the Local Government Act 1993, because it contains:-
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

46 [EO-CM] EC2013-092 Arkinstall Park Regional Tennis Centre Design and Construct 8 Courts and Construct New Clubhouse Building

664

Cr G Bagnall

Cr M Armstrong

RESOLVED that Council calls an Extraordinary Meeting on Thursday 7 November 2013 to consider the report for EC2013-092 Arkinstall Park Regional Tennis Centre Design and Construct 8 Courts and Construct New Clubhouse Building.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

48 [EO-CM] Adoption of Section 94 Plan No. 5 - Local Open Space Version 7

665

Cr G Bagnall
Cr M Armstrong

RESOLVED that Council:

1. Approves Draft S94 Plan No 5 – Local Open Space Version 7 as exhibited to repeal and replace version 6.1.2 in accordance with Clause 31 of the Environmental Planning & Assessment Regulations 2000; and
2. Gives Public Notice in the Tweed Link of Council's decision specifying that the amended Version 7 of the Plan (CP5) comes into effect on the date of the notice.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

49 [EO-CM] Banora Point Upgrade Handover

666

Cr G Bagnall
Cr M Armstrong

RESOLVED that Council accepts the Roads and Maritime Services (RMS) revised one off payment of \$756,900.49 consisting of \$556,900.49 for maintenance including the Sexton Hill footbridge and \$200,000.00 for the construction of stormwater drainage in Minjungbal Drive.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr K Milne

REPORTS FROM THE ACTING DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

53 [TCS-CM] Pecuniary Interest Returns 2012/2013

667

**Cr G Bagnall
Cr M Armstrong**

RESOLVED that the Pecuniary Interest Returns for Councillors and Designated Persons for the period 1 July 2012 to 30 June 2013, as tabled, be received and noted.

The Motion was **Carried**

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

54 [TCS-CM] Amended 2013/2014 Fees and Charges

668

**Cr G Bagnall
Cr M Armstrong**

RESOLVED that the 2013/2014 fee as proposed in this report, and the amended "Road Naming in a new Subdivision" processing fee, be placed on public exhibition for 28 days inviting submissions, in accordance with Section 610F of the Local Government Act 1993.

The Motion was **Carried**

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

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

57 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held 5 September 2013

669

**Cr G Bagnall
Cr M Armstrong**

RESOLVED that the Minutes of the Local Traffic Committee Meeting held 5 September 2013 be received and noted.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

ADJOURNMENT OF MEETING

Adjournment for dinner at 6.36pm.

RESUMPTION OF MEETING

The Meeting resumed at 7.22pm

31 [PR-CM] Development Application DA13/0221 for a Pontoon Boat and Water Sports Boat Operation on the Tweed River from Fingal Boat Ramp with Passenger Pick Up/Set Down from Beach at Old Barney's Point Bridge Jetty at Lot 403 DP 755740 Main Road Fingal Head

670

Cr W Polglase
Cr M Armstrong

RESOLVED that Development Application DA13/0221 for a Pontoon Boat and Water Sports Boat Operation on the Tweed River from Fingal Boat Ramp with Passenger Pick Up/Set Down from Beach at Old Barney's Point Bridge Jetty at Lot 403 DP 755740 Main Road Fingal Head; Lots 9 and 10 DP 24164; Lots 9-12 DP 830655 Nos. 2-12 Chinderah Bay Drive, Chinderah and Tweed River, Tweed Heads be deferred for a workshop with the applicant.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

SUSPENSION OF STANDING ORDERS

671

Cr B Longland
Cr P Youngblutt

RESOLVED that Standing Orders be suspended to deal with Item 20 [GM-CM] Review of Documents with Findings - LEDA Development of the Agenda.

The Motion was **Carried**

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

20 [GM-CM] Review of Documents with Findings - LEDA Developments

Kath Roach, at the invitation of the Mayor, provided an overview of the independent review process that was undertaken by SINC Solutions Pty Ltd and offered to take questions from Councillors with respect to the contents of the Council report.

Mr Terry Sharples, a Tweed resident, addressed Council in relation to discussing the matter in Confidential Committee of the Whole.

RESUMPTION OF STANDING ORDERS

672

**Cr B Longland
Cr M Armstrong**

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

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

CONFIDENTIAL COMMITTEE OF THE WHOLE

673

**Cr B Longland
Cr M Armstrong**

RESOLVED that in accordance with the Code of Meeting Practice and section 373 of the Local Government Act, Council suspends Standing Orders and convenes a closed 'committee of the whole' in accordance with Section 10A(1)(b) to enable the author of the SINC Solutions report to address Council on their report contents and enable Council to ask questions relating to the findings or confidential matters.

The Motion was **Carried**

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

The Acting General Manager reported that the closed 'committee of the whole' had excluded the press and public from the whole of the Committee Meeting because, in the opinion of the Committee, publicity of the proceedings of the Committee would be prejudicial to the public interest, by reason of the confidential nature of the business to be transacted.

674

Cr P Youngblutt
Cr M Armstrong

RESOLVED that the Committee resumes in Open Council.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

REPORTS THROUGH THE ACTING GENERAL MANAGER

REPORTS FROM THE ACTING GENERAL MANAGER

20 [GM-CM] Review of Documents with Findings - LEDA Developments

675

Cr M Armstrong
Cr G Bagnall

RESOLVED that:

1. (a) Council receives and notes, the contents of the review report (Review of Documents with Findings) prepared by SINC Solutions, into the issues raised by LEDA in their 2011 and 2013 reports.
- (b) Council notes management's intention to implement the SINC Solutions report recommendations and to provide advice to Council on the progress of the implementation on a regular basis.
- (c) Council notes legal advice may be required with regards to the matters that the Independent Chair (Recommendations 12-14) will be permitted to determine given Council's Statutory, Planning and Delegation obligations.
- (d) Council notes that pending the outcome of Recommendation 2(c) of the Council Resolution that the seeking of legal advice in accordance with Recommendation 13 of the SINC Solutions report will only be obtained upon an equal cost share basis as agreed between the parties.
- (e) That in addition to the proposed attendees in Recommendation 14 of the SINC Solutions report; that the Regional Manager of LEDA responsible for the Cobaki and Kings Forest (Project 28 Pty Ltd) developments, the Tweed Shire Council Mayor, and the Tweed Shire Council Director responsible for Planning and Regulation; and any other persons requested, as agreed by either party, also be invited.

2. Council further notes that a copy of the complete SINC Solutions report has been forwarded to the Division of Local Government.
3. ATTACHMENTS 1, 2 and 3 are confidential in accordance with The Local Government Act 1993 Clause 10A(2):
 - (a) personnel matters concerning particular individuals (other than councillors); and
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

(Notwithstanding these provisions in relation to confidentiality it is deemed in the Public Interest to make the Recommendations contained within the SINC Solutions report (contained within Attachment 1) publicly available and to provide a confidential extract of the report being Attachment 3 to LEDA).
4. A confidential extract copy of the SINC Solutions report (Attachment 3) be provided to LEDA which comprises the following:
 - o Executive Summary;
 - o Background;
 - o 115 Findings with the exception of 11 complete and 3 partial which have had redactions applied;
 - o 19 Recommendations with the exception of a small redaction which is immaterial to the recommendation; and
 - o Attachment B of the SINC Solutions report comprising the complaint summary.

The Motion was **Carried** on the Casting Vote of the Mayor

FOR VOTE - Cr M Armstrong, Cr G Bagnall, Cr B Longland
AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne
ABSENT. DID NOT VOTE - Cr K Milne

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

32 [CNR-CM] Wake Impact on River Bank Erosion - Council Options for Management

676

Cr C Byrne
Cr P Youngblutt

PROPOSED that Council:

1. Continues to take a proactive, ongoing role in addressing river bank erosion. Council should work with the community, State Government agencies and river users to address the issue of river bank erosion, and its impact on roads and the environment. Council's activities in managing river bank erosion should acknowledge that wake waves are only one of several important factors that cause erosion.
-

2. Continues to stabilise areas of river bank erosion as required, but also as a matter of urgency, implement trials of pre-emptive river bank stabilisation techniques that can mitigate the ecological and amenity impacts of full bank height rock armour work.
3. Investigates funding options for pre-emptive stabilisation of river bank erosion adjacent to Tumbulgum Road and the Tweed Valley Way. Council should also liaise with the Department of Roads and Maritime Services to identify sources of funding that can be used to build the resilience of river banks adjacent to the Tweed Valley Way, rather than rely on disaster relief funding and emergency repairs as a primary means of managing river bank erosion.
4. Writes to both the NSW Office of Environment and Heritage and NSW Roads and Maritime Services highlighting the level of erosion vulnerability of certain sections of the Stotts Island river bank, and recommend to Roads and Maritime Services and Office of Environment and Heritage that the river reach adjacent to Stotts Island be designated as a no towing zone.
5. Writes to NSW Roads and Maritime Services (RMS) advising the department that Council considers use of wake enhancement devices and wake surfing on the Tweed River to be incompatible with Council's objective of reducing river bank erosion and the related impacts on roads and the environment. RMS be requested to ban use of such devices and wake surfing on the Tweed River.
6. Proactively partners with and supports the Tweed Water Ski Club led boat driver education program, as a means of maximising the effectiveness of this program and encouraging best practice vessel use to achieve environmental outcomes and reduction of wake impact on river bank erosion.

The Motion was **Lost** on the Casting Vote of the Mayor - (Minute No. 676 refers)

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne
AGAINST VOTE - Cr M Armstrong, Cr G Bagnall, Cr B Longland
ABSENT. DID NOT VOTE - Cr K Milne

677

Cr B Longland
Cr G Bagnall

RESOLVED that Council:

1. Continues to take a proactive, ongoing role in addressing river bank erosion. Council should work with the community, State Government agencies and river users to address the issue of river bank erosion, and its impact on roads and the environment. Council's activities in managing river bank erosion should acknowledge that wake waves are only one of several important factors that cause erosion.
2. Continues to stabilise areas of river bank erosion as required, but also as a matter of urgency, implement trials of pre-emptive river bank stabilisation techniques that can mitigate the ecological and amenity impacts of full bank height rock armour work.

3. Investigates funding options for pre-emptive stabilisation of river bank erosion adjacent to Tumbulgum Road and the Tweed Valley Way. Council should also liaise with the Department of Roads and Maritime Services to identify sources of funding that can be used to build the resilience of river banks adjacent to the Tweed Valley Way, rather than rely on disaster relief funding and emergency repairs as a primary means of managing river bank erosion.
4. Writes to both the NSW Office of Environment and Heritage and NSW Roads and Maritime Services highlighting the level of erosion vulnerability of certain sections of the Stotts Island river bank, and recommend to Roads and Maritime Services and Office of Environment and Heritage that the river reach adjacent to Stotts Island be designated as a no towing zone.
5. Writes to NSW Roads and Maritime Services (RMS) advising the department that Council considers use of wake enhancement devices and wake surfing on the Tweed River to be incompatible with Council's objective of reducing river bank erosion and the related impacts on roads and the environment. RMS be requested to ban use of such devices and wake surfing on the Tweed River.
6. Proactively partners with and supports the Tweed Water Ski Club led boat driver education program, as a means of maximising the effectiveness of this program and encouraging best practice vessel use to achieve environmental outcomes and reduction of wake impact on river bank erosion.
7. Defers consideration of commercial towing activities on the Tweed River lodged after 17 October 2013 until receipt as per item 13 of the Council meeting Thursday 20 June 2013, that being:

That Council brings forward a report no later than the April 2014 Council meeting outlining a comprehensive planning proposal capable of adoption by Council to regulate commercial wakeboarding operations and events throughout the Tweed Shire.

The Motion was **Carried** - (Minute No. 677 refers)

FOR VOTE - Cr C Byrne, Cr M Armstrong, Cr G Bagnall, Cr B Longland

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase

ABSENT. DID NOT VOTE - Cr K Milne

33 [CNR-CM] Chinderah Pontoon - Confirmation of Location

678

Cr B Longland

Cr G Bagnall

RESOLVED that Council:

1. Rescinds point 3 of the resolution at Minute No 455 of the meeting held 17 July 2012, being:
 3. *The project be developed on the basis of the pontoon being 40 metres in length.*
2. Modifies the location and size of the pontoon, moving it 45 metres downstream and reducing its length by 10 metres to 30 metres.
3. Prepares and lodges a new Part V development application for the structure.
4. ATTACHMENT 5-8 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:
 - (a) personnel matters concerning particular individuals (other than councillors).

AMENDMENT 1

679

**Cr G Bagnall
Cr M Armstrong**

PROPOSED that Council:

1. Rescinds point 3 of the resolution at Minute No 455 of the meeting held 17 July 2012, being:
 3. *The project be developed on the basis of the pontoon being 40 metres in length.*
2. Modifies the location and size of the pontoon, moving it 45 metres downstream and reducing its length by 15 metres to 25 metres.
3. Prepares and lodges a new Part V development application for the structure.
4. ATTACHMENT 5-8 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:
 - (a) personnel matters concerning particular individuals (other than councillors).

Amendment 1 was **Lost** - (Minute No. 679 refers)

FOR VOTE - Cr M Armstrong, Cr G Bagnall

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr B Longland

ABSENT. DID NOT VOTE - Cr K Milne

680

AMENDMENT 2

**Cr W Polglase
Cr C Byrne**

PRPOSED that:

1. The project be developed on the basis of the pontoon being 40 metres in length.
-

2. Council modifies the location of the pontoon, moving it 45 metres downstream.
3. Council prepares and lodges a new Part V development application for the structure.
4. ATTACHMENTS 5-8 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:
 - (a) personnel matters concerning particular individuals (other than councillors).

Amendment 2 was **Lost** on the Casting Vote of the Mayor - (Minute No. 680 refers)

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne

AGAINST VOTE - Cr M Armstrong, Cr G Bagnall, Cr B Longland

ABSENT. DID NOT VOTE - Cr K Milne

The Motion was **Carried** on the Casting Vote of the Mayor - (Minute No. 678 refers).

FOR VOTE - Cr M Armstrong, Cr G Bagnall, Cr B Longland

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne

ABSENT. DID NOT VOTE - Cr K Milne

ORDERS OF THE DAY

10 [NOM-Cr K Milne] Proposed Chinderah Jetty - Visual Impact Assessment

This item lapsed.

11 [NOM-Cr K Milne] Proposed Chinderah Jetty - Seagrass Impact Assessment

This item lapsed.

Cr W Polglase temporarily left the meeting at 09:33 PM.

34 [CNR-CM] Project Update - Clarrie Hall Dam Spillway Flood Safety Upgrade Construction - EC2012-191

This item was dealt with earlier in the Agenda - (Minute No. 653 refers).

35 [CNR-CM] EC2010-135 Removal and Disposal/Reuse of Biosolids

This item was dealt with earlier in the Agenda - (Minute No. 654 refers).

36 [CNR-CM] In Kind Support - Waiving of Royalties on Gravel from Council Quarry for Council Project at Terranora Tennis Courts

This item was dealt with earlier in the Agenda - (Minute No. 655 refers).

37 [CNR-CM] Graffiti Walls

This item was dealt with earlier in the Agenda - (Minute No. 656 refers).

38 [CNR-CM] Request for headspace 'letters of support' for Expression of Interest (EOI) submission process

681

**Cr M Armstrong
Cr P Youngblutt**

RESOLVED that Council provides a 'letter of support' to Medicare Local and On Track Community Programs, and Artius, for their submissions to the headspace project to be located in the Tweed Shire.

The Motion was **Carried**

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

39 [CNR-CM] EC2013-173 and EC2013-174 Venue Services

This item was dealt with earlier in the Agenda - (Minute No. 657 refers).

40 [CNR-CM] Request for Auditorium Use - Tweed Heads Civic Centre

This item was dealt with earlier in the Agenda - (Minute No. 658 refers).

41 [CNR-CM] Proposed Planning Agreement for the Cobaki Lakes Development

This item was dealt with earlier in the Agenda - (Minute No. 659 refers).

LATE ITEM

682

**Cr M Armstrong
Cr P Youngblutt**

RESOLVED that Item a41 - Sponsorship of the Kids in the Community 2013 Awards 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 - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr W Polglase, Cr K Milne

Cr W Polglase has returned from temporary absence at 09:34 PM

a41 [CNR-CM] Sponsorship of the Kids in Community 2013 Awards

683

Cr W Polglase

Cr C Byrne

RESOLVED that Council becomes a Gold Sponsor of the Kids in Community 2013 Awards to be hosted by Kids in Community Inc.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr K Milne

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

42 [EO-CM] Tweed Coast Road - Road Widening

This item was dealt with earlier in the Agenda - (Minute No. 660 refers).

43 [EO-CM] Lease to Northern Rivers Childcare Service - Park Street, Tweed Heads

This item was dealt with earlier in the Agenda - (Minute No. 661 refers).

44 [EO-CM] Bruce Chick Park

This item was dealt with earlier in the Agenda - (Minute No. 662 refers).

45 [EO-CM] EC2013-175 Supply of Bitumen Emulsion

This item was dealt with earlier in the Agenda - (Minute No. 663 refers).

46 [EO-CM] EC2013-092 Arkinstall Park Regional Tennis Centre Design and Construct 8 Courts and Construct New Clubhouse Building

This item was dealt with earlier in the Agenda - (Minute No. 664 refers).

47 [EO-CM] EQ2013-078 Licensed Asbestos Removalist Panel of Providers for Emergency Works

684

Cr M Armstrong

Cr C Byrne

RESOLVED that:

1. Council accepts the list of providers for the tender EQ2013-078 Licensed Asbestos Removalists Panel of Providers for Emergency Works for a two (2) year period as included in the confidential attachment to this report.
2. The General Manager is given delegated authority to approve variations up to 10% of the initial contract sum to a maximum of \$150,000 and those variations be reported to Council following completion of the tendered works/services.
3. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr K Milne

48 [EO-CM] Adoption of Section 94 Plan No. 5 - Local Open Space Version 7

This item was dealt with earlier in the Agenda - (Minute No. 665 refers).

49 [EO-CM] Banora Point Upgrade Handover

This item was dealt with earlier in the Agenda - (Minute No. 666 refers).

REPORTS FROM THE ACTING DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

50 [TCS-CM] 2012/2013 Statutory Financial Reports/Audit Report

685

**Cr M Armstrong
Cr C Byrne**

RESOLVED that:

1. In accordance with Section 413(1) of the Local Government Act 1993 Council refers the General Purpose Financial and Special Purpose Financial Reports for audit.
2. The statement as to Council's opinion on the General Purpose Financial Reports as required by Section 413(2)(c) of the Local Government Act 1993 and the Special Purpose Financial Reports as required by the Local Government Code of Accounting Practice and Financial Reporting for the financial period 2012/2013, be executed.

The Motion was **Carried**

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

51 [TCS-CM] Audit Committee Annual Report for Period Ending 30 June 2013

686

**Cr M Armstrong
Cr C Byrne**

RESOLVED that Council receives and notes the Audit Committee Annual Report for the financial year ended 30 June 2013.

The Motion was **Carried**

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

52 [TCS-CM] December 2013 Community Access and Council Meeting - Date

687

**Cr M Armstrong
Cr W Polglase**

RESOLVED that in accordance with Section 13.1 of the Code of Meeting Practice Version 2.3:

1. The Community Access Session be convened on Tuesday 10 December 2013 between 4pm and 5pm;
2. The Council Meeting be held on 12 December 2013 commencing at 4.45pm; and
3. The Reserve Trusts meetings, if required, be convened at 4.30pm prior to the Council Meeting.

The Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr M Armstrong, Cr G Bagnall, Cr B Longland

AGAINST VOTE - Cr C Byrne

ABSENT. DID NOT VOTE - Cr K Milne

53 [TCS-CM] Pecunary Interest Returns 2012/2013

This item was dealt with earlier in the Agenda - (Minute No. 667 refers).

54 [TCS-CM] Amended 2013/2014 Fees and Charges

This item was dealt with earlier in the Agenda - (Minute No. 668 refers).

LATE ITEM

688

**Cr W Polglase
Cr M Armstrong**

RESOLVED that Item a55 Monthly Investment and Section 94 Developer Contributions Report for the Period Ending 30 September 2013 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 - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr K Milne

a55 [TCS-CM] Monthly Investment and Section 94 Developer Contributions Report for the Period Ending 30 September 2013

689

**Cr W Polglase
Cr M Armstrong**

RESOLVED that in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at period ending 30 September 2013 totalling \$181,336,878 be received and noted.

The Motion was **Carried**

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

DELEGATE REPORTS

Nil.

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

56 [SUB-TCKAG] Minutes of the Tweed Coast Koala Advisory Group Committee Meeting held Tuesday 3 September 2013

The Acting General Manager tabled a letter from Project 28 Pty Ltd dated 17 October 2013 and advised that a copy had been circulated to all Councillors, Directors and the press.

690

**Cr M Armstrong
Cr G Bagnall**

RESOLVED that the:

1. Minutes of the Tweed Coast Koala Advisory Group Committee Meeting held Tuesday 3 September 2013 be received and noted.
2. Letter received 17 October 2013 from Project 28 Pty Ltd be referred to the Tweed Coast Koala Advisory Group for their consideration.

The Motion was **Carried**

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

57 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held 5 September 2013

This item was dealt with earlier in the Agenda - (Minute No. 669 refers).

CONFIDENTIAL COMMITTEE

691

**Cr B Longland
Cr G Bagnall**

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

The Motion was **Carried**

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

The Acting 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:

ORDERS OF THE DAY IN COMMITTEE

C1 [NOM-Cr W Polglase] Director's Contracts

NOTICE OF MOTION:

REASON FOR CONFIDENTIALITY:

Local Government Act

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

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

C 68

That the Acting General Manager:

1. Be requested to negotiate with the:

- Director Engineering and Operations
- Director Planning and Regulation
- Director Community and Natural Resources

for a one year extension to their existing contracts, which is in addition to the recommendation from the Division of Local Government in the letter dated 12 April 2013:

"That the Acting General Manager appoints senior staff whose contracts are due to expire to new 12 month contracts as originally proposed by the former General Manager."

2. Seeks confirmation of the Division of Local Government how to enact the process.

The Motion was **Carried**

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

REPORTS THROUGH THE ACTING GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

aC2 [CNR-CM] Sale of Council Land - 1 Nullum Street, Murwillumbah

C 70

That:

1. Council accepts the written offer for the purchase of 1 Nullum Street, Murwillumbah as noted in the body of the report.
2. All necessary documents be executed under the Common Seal of Council.

The Motion was **Carried**

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

692

Cr B Longland
Cr P Youngblutt

RESOLVED that the recommendations of the Confidential Committee be adopted.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

There being no further business the Meeting terminated at 9.46pm.



Minutes of Meeting Confirmed by Council

at the

Council Meeting held on xxx

Chairman