



**TWEED**  
SHIRE COUNCIL

**Mayor:** Cr K Milne

**Councillors:** G Bagnall (Deputy Mayor)  
C Byrne  
B Longland  
W Polglase  
P Youngblutt

# Minutes

## **Ordinary Council Meeting Thursday 5 November 2015**

held at Murwillumbah Cultural and Civic Centre  
commencing at 5.00pm

## 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 6.13pm.

### **IN ATTENDANCE**

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

Also present were Mr Troy Green (General Manager), Ms Liz Collyer (Director Corporate Services), Mr Ian Kite (Manager Infrastructure Delivery) for Director Engineering, Mr Vince Connell (Director Planning and Regulation), Mr Shane Davidson (Executive Officer), Mr Neil Baldwin (Manager Corporate Governance) and Ms Ann Mesic (Minutes Secretary).

### **DISCLOSURE OF INTEREST**

Nil.

### **CONFIRMATION OF PLANNING COMMITTEE MINUTES**

- 1 [CONMIN] Adoption of the Recommendations of the Planning Committee Meeting held Thursday 5 November 2015**

589

**Cr C Byrne  
Cr B Longland**

**RESOLVED** that the recommendations of the Ordinary Planning Committee Meeting held Thursday 5 November 2015 be adopted.

- 1 [PR-PC] Development Application DA14/0384 for a 21 Lot Subdivision - Staged Development at Lot 1 DP 1077697 No. 768-770 Casuarina Way, Casuarina**

**RECOMMENDED** that Development Application DA14/0384 for a 21 lot subdivision - staged development at Lot 1 DP 1077697 No. 768-770 Casuarina Way, Casuarina be deemed to be operational pursuant to Section 100(4) of the Environmental Planning and Assessment Regulation, 2000 and the applicant be advised in writing that the deferred matters have been satisfied and the consent is now operational.

- 2 [PR-PC] Development Application DA15/0742 for Conversion of Boathouse to a Combined Boathouse and Dwelling at Lot 602 DP 1098619 Point Break Circuit, Kingscliff**

**RECOMMENDED** that Development Application DA15/0742 for conversion of a boathouse to a combined boathouse and dwelling at Lot

602 DP 1098619 Point Break Circuit, Kingscliff be refused for the following reasons:

1. The application fails to satisfy the principal aim of the Tweed Local Environmental Plan 2000 (Clause 4) which is to ensure “The management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is enhanced.” The proposed development fails to adequately consider the sites' importance in regard to public amenity and foreshore access and would result in a development which does not respond to the existing character of the area.
2. The development as proposed is not considered to have adequate regard for the Ecologically Sustainable Development provisions as outlined in Clause 5 the Tweed Local Environmental Plan 2000.
3. The development does not satisfy Section 79C of the Environmental Planning and Assessment Act, particularly Section (a)(i) - any environmental planning instrument. The proposal is not considered to be consistent with the objectives of the Tweed Local Environmental Plan 2000.
4. The development does not satisfy Section 79C of the Environmental Planning and Assessment Act, particularly Section (a)(i) - any environmental planning instrument. The proposal is not considered to be consistent with State Environmental Planning Policy No. 71 - Coastal Protection.
5. The development as proposed does not satisfy Clause 8(1) of the Tweed Local Environmental Plan 2000 as the development does not satisfy the 2(f) Tourism zone objectives, and is considered to have an unacceptable impact in regards to public amenity and safety matters
6. The development does not satisfy Section 79C of the Environmental Planning and Assessment Act, particularly Section (a)(v) - any coastal zone management plan namely the Tweed Coast Estuaries Management Plan 2012, given the adverse impact upon public access to the Cudgen Creek foreshore.
7. The development as proposed does not satisfy Clause 39A of the Tweed Local Environmental Plan 2000 in regards to bushfire protection. The development as proposed does not provide sufficient Asset Protection Zones upon the subject land to satisfy the Planning for Bushfire Protection Guidelines 2006.

8. The development does not satisfy Section 79C of the Environmental Planning and Assessment Act, particularly Section (a)(e) - the public and has failed to adequately address the concerns raised in the public submissions received following public notification of the proposal.

**3 [PR-PC] Development Application DA15/0443 for a 2 Lot Subdivision at Lot 2 DP 528642 No. 221 Terranora Road, Banora Point**

**RECOMMENDED** that Development Application DA15/0443 for a 2 lot subdivision at Lot 2 DP 528642; No. 221 Terranora Road, Banora Point be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos TERRANORARD\_SUBPLN (Revision 2), prepared by PLANIT CONSULTING and dated 2/2015, except where varied by the conditions of this consent.  
[GEN0005]
2. The use of crushing plant machinery, mechanical screening or mechanical blending of materials is subject to separate development application.  
[GEN0045]
3. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.  
[GEN0265]
4. The approved subdivision/development shall not result in any clearing of native vegetation without prior approval from the relevant authority.  
[GEN0290]
5. This development consent does not include demolition of the existing structures on the subject site. A separate approval will need to be obtained for this purpose, as statutorily required.  
[GEN0305]
6. Any future dwelling on Lot B shall be located in accordance with the Preliminary Site Investigation Proposed Dwelling for Lot 2 DP 528642, 221 Terranora Road, Terranora prepared by HMC Environmental Consulting dated November 2014 (Report: HMC2014.139 CL) and Addendum for Preliminary Site Investigation - DA15/0443 - Proposed Dwelling - Lot 2 DP 528642, 221 Terranora Road, Terranora prepared by HMC Environmental Consulting Pty Ltd dated 1 July 2015. Proposed changes to this location may require an additional contaminated land investigation of the subject site to the satisfaction of Council's General Manager or delegate.  
[GENNS01]

7. The installation of an on-site sewage system to service a dwelling on Lot B shall be as described in the On-Site Sewage Management Design Report (HMC2014.139) dated June 2015 or to the satisfaction of the General Manager or Delegate.  
[GENNS02]
8. Erosion and Sediment Control shall be designed, installed and maintained in accordance with Tweed Shire Council Development Design Specification D7 - Stormwater Quality and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".  
[GENNS03]
9. This development consent does not include earthworks on the site, other than trenching for services.  
[GENNS04]
10. Any works undertaken onsite shall be undertaken in accordance with the provisions of Tweed Shire Council DCP Section A6 - Biting Midge and Mosquito Controls.  
[GENNS05]

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

11. Prior to the issue of a Civil Construction Certificate for each stage of the project, a Construction Management Plan shall be submitted to and approved by the Principle Certifying Authority. A copy of the approved plan shall be submitted to Council. The Plan shall address, but not be limited to, the following matters where relevant:
  - a) Hours of work;
  - b) Contact details of site manager;
  - c) Traffic and pedestrian management;
  - d) Noise and vibration management;
  - e) Construction waste management;
  - f) Erosion and sediment control; and,
  - g) Flora and fauna management.

Where construction work is to be undertaken in stages, the Proponent may, subject to agreement with the Principle Certifying Authority, stage the submission of the Construction Management Plan consistent with the staging of activities relating to that work. The Proponent shall submit a copy of the approved plan to Council.

[PCC0125]

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

accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

13. A Traffic Control Plan in accordance with AS1742 and the latest version of the NSW Government Roads and Maritime Services (RMS) publication "Traffic Control at Work Sites" shall be prepared by an RMS accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate for Subdivision Works. Safe public access shall be provided at all times.

[PCC0865]

14. Prior to the issue of a Construction Certificate for subdivision works, the following detail in accordance with Council's Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

(a) copies of compliance certificates relied upon

(b) four copies of detailed engineering plans and specifications, prepared in accordance with Development Design Specification D13 - particularly Section D13.09. The detailed plans shall include but are not limited to the following:

- earthworks
- roadworks/furnishings
- stormwater drainage
- water supply works
- A new water service connection shall be provided for the new Lot (Lot B).
- The Construction Certificate shall detail the location of the new water service and existing water service. New water connections shall be installed by Tweed Shire Council on live mains. The arrangements and costs associated with any adjustment / installation to water infrastructure shall be borne in full by the applicant/developer. The engineering plans shall demonstrate that the existing water service is fully contained within proposed Lot A.
- sewerage works
- landscaping works
- sedimentation and erosion management plans
- location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure), as well as details and locations of any significant electrical servicing infrastructure - such as transformers and substations

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

certified by an Accredited Certifier.

[PCC0985]

## **PRIOR TO COMMENCEMENT OF WORK**

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

[PCW0005]

16. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved management plans or the like, shall be installed/operated in accordance with those conditions or plans.

[PCW0015]

17. Prior to the commencement of works, the applicant shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with either:-

- (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3<sup>rd</sup> Edition, NSW Government, or
- (b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
- (c) WorkCover Regulations 2000

[PCW0025]

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

[PCW0225]

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

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be



removed when the work has been completed.

[PCW0255]

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

[PCW0375]

21. Subdivision work in accordance with a development consent must not be commenced until:

- (a) a Construction Certificate for the subdivision work has been issued in accordance with Councils Development Construction Specification C101 by:

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

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

- (i) has appointed a principal certifying authority,
- (ii) has appointed a Subdivision Works Accredited Certifier (SWAC) to certify the compliance of the completed works. The SWAC must be accredited in accordance with Tweed Shire Council DCP Part A5 - Subdivision Manual, Appendix C with accreditation in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the SWAC shall possess accreditation in the following categories:

C4: Accredited Certifier - Stormwater management facilities construction compliance

C6: Accredited Certifier - Subdivision road and drainage construction compliance

The SWAC shall provide documentary evidence to Council demonstrating current accreditation with the Building Professionals Board prior to commencement of works, and

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

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

Note: For subdivisions creating 5 new allotments or less, OR the value of new public infrastructure is less than \$30,000, then the SWAC may be substituted for an Institute of Engineers Australia Chartered Professional Engineer (Civil College) with National Professional Engineers Register (NPER) registration.

[PCW0815]

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

[PCW0835]

23. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required. These measures are to be in accordance with the approved erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

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

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

[PCW0985]

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

[PCW1105]

25. Any alteration to the existing on-site sewage management facilities must be approved to the satisfaction of the General Manager or his delegate.

[PCW1125]

## **DURING CONSTRUCTION**

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

[DUR0005]

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

Monday to Saturday from 7.00am to 6.00pm  
No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

A. Short Term Period - 4 weeks.

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

B. Long term period - the duration.

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

[DUR0215]

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

[DUR0675]

30. All earthworks and filling shall be carried out in accordance with AS 3798 (current version) to a Level 1 inspection regime and testing in accordance with Table 8.1.

Notwithstanding earthworks and filling, the frequency of field density tests for trenches shall be undertaken in accordance with Table 8.1 of AS 3798 (current version).

[DUR0795]

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

[DUR0815]

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

[DUR0985]

33. 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]

34. 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]

35. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. Such materials shall either be recycled or disposed of in a manner acceptable to Councils General Manager or his delegate.

[DUR1015]

36. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]

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

Water Reticulation, Sewer Reticulation, Drainage

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

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

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

The fee for the abovementioned inspections shall be invoiced upon completion of all subdivision works, and subject to the submission of an application for a 'Subdivision Works Compliance Certificate'.

[DUR1895]

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

[DUR2015]

39. The works are to be completed in accordance with Tweed Shire Councils Development Control Plan, Part A5 - Subdivision Manual and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.

[DUR2025]

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

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

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

[DUR2375]

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

[DUR2425]

42. The Applicant shall submit the appropriate 'Application for Water Service Connection' to Council's Water Unit to facilitate a property service water connection for proposed Lot B, from the existing water main in Terranora Road. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.

[DUR2800]

43. Dust and Erosion Management

(a) Site earthworks are to be limited to a 5ha maximum at any time to reduce exposed areas. Completed area's are to be topsoiled and seeded immediately to protect them from water and wind erosion.

- (b) All topsoil stockpiles are to be sprayed with dust suppression material such as "hydromulch", "dustex" or equivalent. All haul roads shall be regularly watered or treated with dust suppression material or as directed on site.
- (c) All construction activities that generate dust shall cease when average wind speeds exceed 15m/s (54 km/h). The applicant shall be responsible for the monitoring of on-site wind speeds and be able to produce this data to Council on request.

[DUR2825]

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

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

[PSC0005]

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

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

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

Water DSP3: 1.2 ET @ \$13128 per ET \$15,753.60

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

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

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

- 46. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the

Act and the relevant Section 94 Plan.

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

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

These charges 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.

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|----|--|----------|
| a. | Tweed Road Contribution Plan:<br>6.5 Trips @ \$2091 per Trips<br>(\$1,988 base rate + \$103 indexation)<br>S94 Plan No. 4<br>Sector5_4 | \$13,592 |
| b. | Open Space (Casual):<br>1 ET @ \$552 per ET<br>(\$502 base rate + \$50 indexation)<br>S94 Plan No. 5                                   | \$552    |
| c. | Open Space (Structured):<br>1 ET @ \$632 per ET<br>(\$575 base rate + \$57 indexation)<br>S94 Plan No. 5                               | \$632    |
| d. | Shirewide Library Facilities:<br>1 ET @ \$851 per ET<br>(\$792 base rate + \$59 indexation)<br>S94 Plan No. 11                         | \$851    |
| e. | Bus Shelters:<br>1 ET @ \$66 per ET<br>(\$60 base rate + \$6 indexation)<br>S94 Plan No. 12  | \$66     |
| f. | Eviron Cemetery:<br>1 ET @ \$124 per ET<br>(\$101 base rate + \$23 indexation)   | \$124    |

S94 Plan No. 13

- g. Community Facilities (Tweed Coast - North)  
1 ET @ \$1411 per ET \$1,411  
(\$1,305.60 base rate + \$105.40 indexation)  
S94 Plan No. 15
- h. Extensions to Council Administration Offices  
& Technical Support Facilities  
1 ET @ \$1888.66 per ET \$1,888.66  
(\$1,759.90 base rate + \$128.76 indexation)  
S94 Plan No. 18
- i. Cycleways:  
1 ET @ \$480 per ET \$480  
(\$447 base rate + \$33 indexation)  
S94 Plan No. 22
- j. Regional Open Space (Casual)  
1 ET @ \$1108 per ET \$1,108  
(\$1,031 base rate + \$77 indexation)  
S94 Plan No. 26
- k. Regional Open Space (Structured):  
1 ET @ \$3890 per ET \$3,890  
(\$3,619 base rate + \$271 indexation)  
S94 Plan No. 26

[PSC0175]

47. 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 (public infrastructure insert /delete as applicable) works (minimum as tabled in Council's fees and charges current at the time of payment) which will be held by Council for a period of 6 months from the date on which the 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]

48. Prior to the issue of a subdivision certificate, a certificate of compliance shall be submitted to Council by the Developers Subdivision Works Accredited Certifier (SWAC) or equivalent, verifying that the placed fill has been compacted in accordance with the requirements of AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments" and is suitable for residential purposes.

The submission shall include copies of all undertaken test results.



[PSC0395]

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

[PSC0725]

50. 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]

51. 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]

52. 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.
- (b) Positive Covenant over the subject land (as applicable) to ensure that the required provisions of the "Planning for Bushfire Protection 2006 "Guidelines and the General Terms of Approval of the Consent as imposed under Section 100B of the Rural Fires Act 1997 are enforced in perpetuity.
- (c) A Restriction As To User requiring that all roofwater from houses, buildings or structures shall be discharged to an approved infiltration pit located on the subject property. The

infiltration pit shall be approved by the Principle Certifying Authority.

- (d) Provide a Right of Carriageway over the existing driveway for access for proposed Lots A and B as depicted in Appendix A of the Statement of Environmental effects.

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]

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

[PSC0855]

54. 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]

55. In conjunction with the application for a Subdivision Certificate, the applicant must also apply to Council (OR PCA if applicable) for a Compliance Certificate for Subdivision Works. This may require obtaining individual Compliance Certificates for various civil works components such as (but not limited to) the following:

- (a) Roads
- (b) Water Reticulation
- (c) Sewerage Reticulation
- (d) Sewerage Pump Station
- (e) Drainage
- (f) Bulk Earthworks
- (g) Retaining Walls

Note:

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

[PSC0915]

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

[PSC0925]

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

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

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

[PSC1165]

59. Electricity

- (a) The production of written evidence from the local electricity supply authority certifying that reticulation and energising of underground electricity (residential and rural residential) has been provided adjacent to the front boundary of each allotment; and
- (b) The reticulation includes the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

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

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

[PSC1185]

60. In accordance with the Federal Government's National Broadband Network (NBN) initiatives, the Developer is required (at the Developer's expense) to install a fibre ready, pit and pipe network (including trenching, design and third party certification) to NBN CO's Specifications, to allow for the installation of Fibre To The Home (FTTH) broadband services.

[PSC1205]

#### **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 Planit Consulting, numbered TERRANORARD\_SUBPLAN (Revision 2), dated February 2015.
2. At the issue of subdivision certificate and in perpetuity the property around the existing dwelling, as indicated below, shall be maintained an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones':
  - North to the proposed property boundary;
  - East and southeast for a distance of 28 metres; and
  - West and southwest for a distance of 24 metres.
3. A 20,000L fire fighting water supply, complying with the requirements of 4.1.3 of 'Planning for Bush Fire Protection 2006' is to be provided to the existing dwelling

4. Any new or upgrading of existing electricity and/or gas services is to comply with 4.1.3 of 'Planning for Bush Fire Protection'.
5. Property Access roads shall comply with section 4.1.3(2) of 'Planning for Bush Fire Protection' except no alternate access is required in this instance.
6. The existing building on proposed Lot A is to be upgraded to improve ember protection. This is to be achieved by enclosing all openings or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any subfloor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted within draft excluders.
7. General Advice

This approval is for the subdivision of the land only. Any further development application for class 1, 2 and 3 buildings as identified by the 'Building Code of Australia' must be subject to separate application under section 79BA of the EP and A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.

**4 [PR-PC] Planning Proposal PP12/0001 - No. 420-434 Terranora Road, Terranora - PUBLIC EXHIBITION**

**DECLARATION OF INTEREST**

The **General Manager, Troy Green** declared a Pecuniary Interest in this item. The nature of the interest is that the property subject of this report is adjacent to the property owned by the General Manager.

Mr Green vacated the chambers during discussion and voting.

**RECOMMENDED that:**

1. Planning Proposal PP12/0001 No. 420-434 Terranora Road, Terranora be amended to remove Lots 6, 7 & 8 DP 28597 from the rezoning proposal, as the planning investigations to date have not been able to demonstrate that future residential development on these allotments will not have significant adverse impact on the existing views from Terranora Road.
2. Following removal of Lots 6, 7 & 8 DP 28597, the Planning Proposal be placed on exhibition for a period of not less than 28 days concurrent with the planning agreement.
3. The Draft Planning Agreement be placed on public exhibition concurrent with the Planning Proposal once agreement between Council and the Landowners is achieved.

4. Maximum dwelling height limitations for Lots 2, 3,4 & 5 DP 28597 as detailed in Table 1 of the report be included in the Planning Proposal prior to public exhibition; and
5. It is noted that the rezoning of the adjoining properties being: Lot1 DP28597,Lots 9,10 and 11 DP 28597, which are separately owned, is now scheduled to occur within a 'housekeeping' LEP and not as part of the planning proposal.

## **5 [PR-PC] Planning Proposal PP15/0006 River Retreat Caravan Park**

**RECOMMENDED** that Council endorse:

1. A planning proposal pursuant to s.55 of the *Environmental Planning and Assessment Act 1979*, seeking to facilitate use of Part Lot 1 DP 100121 for “camping ground” associated with River Retreat Caravan Park be prepared and submitted for a Gateway Determination, as administered by the NSW Department of Planning & Environment;
2. The Minister for Planning or their Delegate be advised that Tweed Council is not seeking plan making delegations for the planning proposal;
3. The Minister for Planning or their Delegate be advised that the minimum exhibition period for this Planning Proposal should be 14 days;
4. On receipt of the Minister’s Gateway Determination Notice to proceed any ‘conditional’ requirements of the Minister and any other study or work required by Council for the purpose of making a proper determination of the lands suitability are to be completed, and included within the public exhibition material;
5. That the planning proposal be publicly exhibited in accordance with the Gateway Determination; and
6. Following public exhibition of the Planning Proposal a report is to be submitted to Council detailing the content of submissions received and any proposed amendment(s).
7. Council officers will work with the Proponent to secure a legally enforceable agreement that will have the effect of limiting both the number of sites and type of camping accommodation to RCV’s (Recreational Camper Vans) and Camper trailers.

8. Compliance action in relation to the alleged unlawful use of the land for camping ground purposes be ceased whilst the Proponent caravan and camping ground operator makes a genuine attempt to remedy the circumstances calling into effect that compliance action by obtaining all necessary statutory approvals, and only if the caravan and camping ground operator agrees in writing to:
  - a. limit the number of camping ground sites to six (6);
  - b. restricts the use of these sites to times of over-flow demand;
  - c. permits only recreational camper vehicle (motorhome), caravan and camper trailer accommodation on these sites;
  - d. provides a copy of an appropriate flood warning and evacuation plan to the occupants of these sites at the time of arrival check-in, and
  - e. undertakes to not carry-out any works in association with the use of the land for camping ground purposes prior to and without all necessary approvals being obtained.

**6 [PR-PC] Combined Development Application and Planning Proposal for Expansion of the BP Highway Service Centre at Chinderah (southbound lane)**

**PROPOSED** that Planning Proposal PP15/0001 (version 3), for Lot 1 DP 1127741 and Lot 2 DP 1010771, being *Tweed Local Environmental Plan 2014 Amendment No. 12*, be forwarded to NSW Planning and Environment requesting the making of the plan under s.59 of the *Environmental Planning and Assessment Act 1979*.

*(It is noted that this motion was **LOST** on the Casting Vote of the Mayor)*

**7 [PR-PC] Housekeeping and Minor Policy Amendment LEP**

**DECLARATION OF INTEREST**

The **General Manager, Troy Green** declared a Pecuniary Interest in this item. The nature of the interest is that properties subject of this report are adjacent to the property owned by the General Manager.

Mr Green vacated the chambers during discussion and voting.

**RECOMMENDED** that Council endorse:

1. The Planning Proposal for Housekeeping and Minor Policy Amendments to the Tweed Local Environmental Plan 2014 be prepared and submitted to the NSW Department of Planning and Environment for a Gateway Determination, in accordance with s56 of the Environmental Planning and Assessment Act;

2. The Minister for Planning and Environment or his Delegate be advised that Tweed Shire Council is not seeking plan making delegations for this planning proposal;
3. The Minister for Planning and Environment or his Delegate be advised that Council is seeking a public exhibition for a period of not less than 28 days;
4. On receipt of the Minister's Gateway Determination Notice to proceed, any 'conditional' requirements of the Minister and any other study or work are to be completed, and included within the public exhibition material;
5. Following receipt of the Gateway Determination the planning proposal be publicly exhibited in accordance with the Gateway Determination and a further report is to be submitted to Council detailing the content of submissions received and any proposed amendment(s).

**8 [PR-PC] Tweed Development Control Plan - Section B11 Seaside City**

**RECOMMENDED** that Council endorse:

1. The Tweed Development Control Plan Section A1 be revised to include Additional Site Specific Controls – Seaside City as per Table 1 of this report and be placed on public exhibition in accordance with Clause 18 of the Environmental Planning and Assessment Regulation 2000 for a minimum period of 28 days; and
2. A post public exhibition report detailing public submissions and any proposed further amendments be prepared for a future Planning Committee meeting.
3. DA15/0079, DA15/0080, DA15/0081 and DA15/0082 all be determined under the Delegation of the General Manager after public exhibition of the DCP has occurred and Council has resolved to adopt the relevant section of the revised DCP.

**9 [PR-PC] Unauthorised Works at Lot 39 DP 755754 No. 790 Kyogle Road, Byangum**

**RECOMMENDED** that this item be deferred to the Council meeting of 19 November 2015 to allow the opportunity for a site inspection.

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

**RECOMMENDED** that Council notes there are no variations for the month of October 2015 to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.



- a10 [PR-PC] Kings Forest Concept Plan Modification (Council Reference GT1/51 Department's Reference MP06/0318 MOD 5) to Allow Food and Drink Premises Within the Mapped Employment Land Area of the Kings Forest Release Area**

**DECLARATION OF INTEREST**

**Cr K Milne** declared a Non-Significant, Non-Pecuniary Interest in this item. The nature of the interest is that Cr K Milne has ongoing legal matters in regard to defamation with the Chairman of Leda Holdings, the developer of the Kings Forest development. Cr K Milne will manage the Interest by staying in the Chair and assessing the matter on merit alone.

**RECOMMENDED** that Council raises no objection to MOD 5 to the Kings Forest Concept Plan (Council Reference GT1/51 Department's Reference MP06/0318 MOD 5) to enable food and drink premises to be considered on merit as permissible land uses within the "employment land" areas of Kings Forest.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**REPORTS THROUGH THE GENERAL MANAGER**

**REPORTS FROM THE GENERAL MANAGER**

**LATE ITEM**

**590**

**Cr C Byrne  
Cr P Youngblutt**

**RESOLVED** that Item a1 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

***FOR VOTE - Unanimous***

a1 [GM-CM] Major Town Centres - Christmas Display

591

Cr K Milne  
Cr C Byrne

**RESOLVED** that:

- A. The advice from the Murwillumbah Chamber of Commerce in relation to the provision of a Christmas Tree in Murwillumbah be noted and the following action implemented for Christmas 2015:
1. Purchase of the decorated and lit Christmas Tree for installation in Murwillumbah be removed from the purchase order; and
  2. The request from Murwillumbah Chamber of Commerce for the purchase of 'Christmas Bows' not be pursued;
- B. The request from Murwillumbah Chamber of Commerce for the provision of funding (to the maximum amount of \$10,000) for a suitable public art-based Christmas tree for installation in Murwillumbah for Christmas 2016, be considered in the preparation of the 2016/2017 budget, acknowledging that there may be other funding sources available.
- C. Requests from Murwillumbah Chamber of Commerce for the installation of a temporary Christmas tree made from either PET bottles or coffee cups be required to address risk management and public safety issues in relation to its installation.

The Motion was **Carried**

**FOR VOTE - Cr B Longland, Cr G Bagnall, Cr K Milne, Cr C Byrne, Cr W Polglase**

**AGAINST VOTE - Cr P Youngblutt**

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There being no further business the Meeting terminated at 6.16pm



**Minutes of Meeting Confirmed by Council  
at the Meeting held on  
xxx**

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**Chairman**

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