



**TWEED**  
SHIRE COUNCIL

**Mayor:** Cr K Milne

**Councillors:** P Allsop  
R Byrnes  
C Cherry (Deputy Mayor)  
R Cooper  
J Owen  
W Polglase

# Minutes

## **Ordinary Council Meeting Thursday 16 March 2017**

held at **Harvard Room, Tweed Heads Administration Building, Brett Street, Tweed Heads** commencing at 5.00pm

# Principles for Local Government

The object of the principles for Tweed Shire Council, as set out in Section 8 of the Local Government Amendment (Governance and Planning) Bill 2016, is to provide guidance to enable council to carry out its functions in a way that facilitates a local community that is strong, healthy and prosperous.

## Guiding Principles for Tweed Shire Council

### (1) Exercise of functions generally

The following general principles apply to the exercise of functions by Tweed Shire Council:

- (a) Provide strong and effective representation, leadership, planning and decision-making.
- (b) Carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) Plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) Work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Work with others to secure appropriate services for local community needs.
- (h) Act fairly, ethically and without bias in the interests of the local community.
- (i) Be responsible employers and provide a consultative and supportive working environment for staff.

### (2) Decision-making

The following principles apply to decision-making by Tweed Shire Council (subject to any other applicable law):

- (a) Recognise diverse local community needs and interests.
- (b) Consider social justice principles.
- (c) Consider the long term and cumulative effects of actions on future generations.
- (d) Consider the principles of ecologically sustainable development.
- (e) Decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

### (3) Community participation

Council should actively engage with the local community, through the use of the integrated planning and reporting framework and other measures.

The Meeting commenced at 5.11pm.

### **IN ATTENDANCE**

Cr Katie Milne (Mayor), Cr Chris Cherry (Deputy Mayor), Cr Pryce Allsop, Cr Reece Byrnes, Cr Ron Cooper, Cr James Owen and Cr Warren Polglase

Also present were Mr Troy Green (General Manager), Ms Liz Collyer (Director Corporate Services), Mr David Oxenham (Director Engineering), Mr Vince Connell (Director Planning and Regulation), Ms Tracey Stinson (Director Community and Natural Resources), Mr Shane Davidson (Executive Officer), Mr Neil Baldwin (Manager Corporate Governance) and Miss Janet Twohill (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 read by the General Manager.

### **CONFIRMATION OF MINUTES**

#### **1 [CONMIN-CM] Confirmation of Minutes of Ordinary and Confidential Council Meeting held Thursday 16 February 2017**

**67**

**Cr R Cooper  
Cr P Allsop**

**RESOLVED** that:

1. The Minutes of the Ordinary and Confidential Council Meetings held Thursday 16 February 2017 be adopted as a true and accurate record of proceedings of that meeting.
2. ATTACHMENT 2 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 - Unanimous**

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**2 [CONMIN-CM] Confirmation of Ordinary and Confidential Council Meeting held on Thursday 2 March 2017**

**68**

**Cr R Cooper  
Cr P Allsop**

**RESOLVED** that:

1. The Minutes of the Ordinary and Confidential Council Meetings held Thursday 2 March 2017 be adopted as a true and accurate record of proceedings of that meeting.
2. ATTACHMENT 2 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 - Unanimous***

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**APOLOGIES**

Nil.

**DISCLOSURE OF INTEREST**

Cr K Milne declared a Non-Sigificant, Non-Pecuniary Interest in Item 41. The nature of the interest is that Cr K Milne has a friendship with a person associated with this matter. Cr K Milne will manage the Interest by staying in the Chamber and voting on the merits of the matter.

Cr C Cherry declared a Non-Sigificant, Non-Pecuniary Interest in Items 11 and 41. The nature of the interest is that Cr C Cherry is President of the Pottsville Community Association. Cr C Cherry will manage the Interest by staying in the Chamber and voting on the merits of the matter.

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

**69**

**Cr K Milne  
Cr C Cherry**

**RESOLVED** that Items 17 and 34 be moved to confidential.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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## SUSPENSION OF STANDING ORDERS

70

Cr K Milne  
Cr C Cherry

**RESOLVED** that Standing Orders be suspended to deal with Items 11, 27 and 41 of the Agenda.

**FOR VOTE - Unanimous**

11            **[PR-CM] Development Application DA16/0550 for an Extension to Preschool and Boundary Adjustment at Lot 509 DP 728257 No. 2-4 Centennial Drive, Pottsville; Lot 3 DP 1062338 and Lot 7021 DP 1113041 Tweed Coast Road, Pottsville**

71

Cr C Cherry  
Cr W Polglase

**RESOLVED** that

- a. Development Application DA16/0550 for an extension to preschool and boundary adjustment at Lot 509 DP 728257 No. 2-4 Centennial Drive, Pottsville; Lot 3 DP 1062338 & Lot 7021 DP 1113041 Tweed Coast Road, Pottsville be approved subject to the following conditions:

### GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and the following plans:
  - Proposed Subdivision by Boundary Adjustment dwg no MIS138 prepared by Tweed Shire Council and dated 4 July 2016
  - Site Plan dwg no A-001 prepared by Redfern Lynch Design and dated 14 December 2016;
  - General Arrangement dwg no A-100 prepared by Redfern Lynch Design and dated 14 December 2016;
  - Floor Plan Entry & Admin Building dwg no A-102 prepared by Redfern Lynch Design and dated 14 December 2016;
  - Floor Plan Classroom Building dwg no A-103 prepared by Redfern Lynch Design and dated 14 December 2016;
  - Roof Plan Entry & Admin Building dwg no A-104 prepared by Redfern Lynch Design and dated 14 December 2016;
  - Roof Plan Classroom Building dwg no A-105 prepared by Redfern Lynch Design and dated 14 December 2016;
  - Car Park Layout (amended in red) dwg no A-106 prepared by Redfern Lynch Design and dated 14 December 2016;

- Vegetation Management dwg no A-108 prepared by Redfern Lynch Design and dated 14 December 2016;
  - Bush Stone Curlew Habitat Restoration Plan dwg no A-109 prepared by Redfern Lynch Design and dated 14 December 2016;
  - Indicative Section 01 dwg no A-200 prepared by Redfern Lynch Design and dated 14 December 2016;
  - Section 02 Classroom Building dwg no A-201 prepared by Redfern Lynch Design and dated 14 December 2016;
  - Sections Administration Building dwg no A-202 prepared by Redfern Lynch Design and dated 14 December 2016;
  - South Elevation (amended in red) dwg no A-300 prepared by Redfern Lynch Design and dated 14 December 2016;
  - North Elevation dwg no A-301 prepared by Redfern Lynch Design and dated 14 December 2016;
  - West Elevation Existing & Admin Building dwg no A-302 prepared by Redfern Lynch Design and dated 14 December 2016;
  - West Elevation Classroom Building dwg no A-303 prepared by Redfern Lynch Design and dated 14 December 2016;
  - Admin Building East Elevation dwg no A-304 prepared by Redfern Lynch Design and dated 14 December 2016;
  - Classroom Building East Elevation dwg no A-305 prepared by Redfern Lynch Design and dated 14 December 2016;
- except where varied by the conditions of this consent.

The development is to be staged as follows:

Stage 1

- Subdivision (boundary adjustment);

Stage 2

- Construction of new classroom building;
- Construction of new sign in foyer;
- Formalise car parking;
- Landscaping of the playground, carpark area, fencing and establishment of asset protection zones;

Stage 3

- Additions to the existing building with construction of new administration area;
- Installation of playground equipment;

[GEN0005]

2. Advertising structures/signs to be the subject of a separate development application (where statutorily required).

[GEN0065]

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

[GEN0115]

4. 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]

5. 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]

6. Sewer manholes are present on this site. Manholes are not to be covered with soil or other material.

Should adjustments be required to the sewer manhole, then applications for these works must be submitted on Council's standard Section 68 Application form accompanied by the required attachments and the prescribed fee. Works will not be approved until prior separate approval to do so has been granted by Council under Section 68 of the Local Government Act.

[GEN0155]

7. Council advises that the land is subject to inundation in a 1 in 100 year event to the design flood level of RL 2.6m AHD.

[GEN0195]

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

[GEN0300]

9. A 5 metre minimum easement shall be created on the subject lots to preserve full access to the sewer rising main pipeline located within the lots.

10. Where easements in favour of Council are provided through private property no structures or part thereof may encroach into the easement. This includes (but is not limited to) any landscaping works, shelters or playground equipment. The proposed works must conform to the requirements identified in Council's *Easement Policy* and *Sewers - Work in Proximity Policy*.

11. Internal water supply and sewer drainage shall connect to the existing water meter and sewer junction on Lot 509 DP 728257.

12. The preschool is approved for a maximum of 60 enrolments and 12 staff.

13. Subject to submission of an application under s138 Roads Act, Twenty (20) 90° parking spaces are installed on Centennial Drive adjacent to the Childcare Centre conforming to the requirements of AS2890.5 On-street parking. The wearing surface for the road car park shall be an AC7 fine gap graded asphalt of thickness 30mm over a 7mm or 10mm bitumen primer seal.

The parking spaces are to be marked a minimum of 8.3m in length and 2.6m in width and include wheelstops 600mm from the concrete footpath with a minimum space of 1m between each wheelstop.

14. A concrete footpath (1.2m wide) is provided adjoining the parking bays providing sealed access to the Centre from each space.

15. One (1) of the parking spaces is to be designated as parking for the disabled and conform to the requirements of AS2890.5, being a minimum of 3.2m in width and appropriately signed and delineated.
16. The on road car parking spaces are to be unreserved and available to the public with the ongoing responsibility for maintenance the responsibility of the Childcare Centre.

[GENNS02]

17. Waste management at the site shall be carried out in accordance with the approved Waste Management Plan.

[GENNS03]

18. 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 as part of Stage 2 works.

Application shall include engineering plans and specifications undertaken in accordance with Council's Development Design and Construction Specifications for the following required works:

- (a) Carparking/roadworks to facilitate 20 fully constructed car parking spaces, inclusive of 1 parking space for the disabled, inclusive of a 1.2m wide concrete footpath along the north side of Centennial Drive.

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

- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[GENNS04/PCC0895]

19. An application for Stage 1 and/or Stage 2 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 or drainage works (including connection of a private stormwater drain to a public stormwater drain or installation of erosion and sediment control works).

[GENNS04]

20. All trees identified to be retained on Dwg. A-108 Issue G Vegetation Management dated 14 December 2016 prepared by Redfern Lynch Designs and specified on Schedule of trees proposed for retention, Pottsville Preschool submitted to Council on the 15 December 2016 shall be retained and afforded adequate protection during the construction and operational phase of the development in accordance with Australian Standard AS4970-2009 - Protection of trees on development sites unless otherwise approved by Council.

21. To ensure the proposal does not have a significant effect on the local population of the threatened Bush Stone-curlew (*Burhinus grallarius*) a 1.2 metre high wire mesh predator proof (fox, dog and cat) fence shall be installed along the eastern and western boundary of Lot 1. The fencing shall return and connect with the '1.8m non-combustible fence' along the northern boundary and the existing north-south aligned 'existing fence' along the eastern boundary as shown on *Dwg. No.*



*A-001 Issue G Site Plan dated 14 December 2016 prepared by Redfern Lynch Designs.*

22. The area identified as 'Assisted Habitat Restoration Area' shown on *Dwg. No. A-108 Issue G Vegetation Management dated 14 December 2016 prepared by Redfern Lynch Designs* in proposed Lot 1 shall be subject to an ecological restoration program in accordance with an approved habitat restoration plan (HRP). The HRP shall include appropriate Bush Stone-curlew habitat enhancement elements.
23. Site based flora and fauna management measures detailed in 'Section 5 - Recommendations' in the Flora and Fauna Assessment Pottsville Community School 35 Tweed Coast Road Pottsville dated March 2015 prepared by Landmark Ecological Services Pty Ltd shall be implemented during the construction and operational phase of the development.

[GENNS05]

#### PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

#### 24. Section 94 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate for Stage 2 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:  
88.8 Trips @ \$1364 per Trips \$72,673.80

(\$1,284 base rate + \$80 indexation)

(\$48,449.20 has been subtracted from this total as this development is deemed an 'Employment Generating Development')

S94 Plan No. 4

Sector8\_4

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

0.1844 ET @ \$1909.57 per ET \$352.12

(\$1,759.90 base rate + \$149.67 indexation)

S94 Plan No. 18

The applicable Developer Contributions may be paid in instalments subject to a written agreement with Council in accordance with Council's *Developer Contributions - Community Organisations Policy*.

[PCC0215]

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate for Stage 2 shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Certificate of Compliance" signed by an authorised officer of Council.

BELOW IS ADVICE ONLY

The Section 64 Contributions for this development at the date of this approval have been estimated as:

Water:	2.76 ET @ \$13,386	= \$36,945.35
Sewer:	4.6 ET @ \$6,431	= \$29,582.60

[PCC0265]

26. 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]

27. If the development is likely to disturb or impact upon water or sewer infrastructure (eg: extending, relocating or lowering of pipeline), written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.

Applications for these works must be submitted on Council's standard Section 68 Application form accompanied by the required attachments and the prescribed fee. The arrangements and costs associated with any adjustment to water and wastewater infrastructure shall be borne in full by the applicant/developer.

The Section 68 Application must be approved by Council prior to the associated Construction Certificate being issued.

[PCC1310]

28. Prior to the issue of a Construction Certificate for Stage 2 works:

- (a) Application shall be made to Council under Section 305 of the Water Management Act 2000 for a certificate of compliance for development to be carried out - i.e: the provision of water and sewerage to the development.
- (b) Following this, requirements shall be issued by Council under Section 306 of the Water Management Act 2000.
- (c) Following this, any works needing to be undertaken will require a further application to be made to Council under Section 68 of the Local Government Act for the relevant water/sewer works. Approval of this application will be required prior to/in conjunction with issuing the Construction Certificate.

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.

[PCC1335]

- 29. Where natural ground levels are expected to be altered around the structural root zone of those trees identified to be retained pursuant to Condition 20 the applicant must submit and have approved by Council prior to issue of a construction certificate an arboricultural impact assessment report prepared in accordance with the *Australian Standard AS4970-2009 Protection of trees on development sites*.
- 30. The detailed landscape plan for proposed Lot 1 being *Dwg. No. Landscape Plan dated 14 December 2016 prepared by Redfern Lynch Design* shall be amended as follows and submitted to and approved by Council's General Manager or delegate prior to the issue of a Construction Certificate for Stage 2. Amendments shall include:
  - a. Replacement of *Lepiderema pulchella* with a local native (non-threatened species) tree species;
  - b. Remove the formal access path traversing the nominated 'Assisted Habitat Restoration Area';
  - c. Ensure plantings comply with the principles of Appendix 5 of *Planning for Bush Fire Protection 2006*;
  - d. Indicate an establishment period of six (6) months.

[PCCNS01]

#### PRIOR TO COMMENCEMENT OF WORK

- 31. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.
- 32. The erection of a building in accordance with a development consent must not be commenced until:

[PCW0005]

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

[PCW0215]

33. 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]

34. 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]
35. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.  
[PCW0665]
36. 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]
37. Tree protection fencing shall be installed prior to commencement of works in accordance with *Australian Standard AS4970-2009 - Protection of trees on development sites* unless otherwise approved by Council across the following areas of the site:
- a. Around all trees to be retained as shown on *Dwg. A-108 Issue G Vegetation Management dated 14 December 2016 prepared by Redfern Lynch Designs* and specified on *Schedule of trees proposed for retention, Pottsville Preschool* submitted to Council on the 15 December 2016
  - b. At the boundary with proposed Lot 2 and proposed Lot 3
38. Within 24 hours of commencement of works a suitably qualified ecologist who holds a fauna survey licence shall inspect the site for fauna to determine whether:
- a. Native fauna are occupying the site through survey evidence or direct observation of animals
  - b. It is necessary to employ site specific fauna management measures that are additional to those measures prescribed in Section 5 - Recommendations' in the *Flora and Fauna Assessment Pottsville Community School 35 Tweed Coast Road Pottsville dated March 2015 prepared by Landmark Ecological Services Pty Ltd* to avoid adverse impact on the health and wellbeing of native fauna

[PCWNS01]

#### DURING CONSTRUCTION

39. 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]

40. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans.

[DUR0015]

41. All works shall comply with AS2601-2001 Demolition of Structures and the Work Health and Safety Regulation 2011.

[DUR0165]

42. 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]

43. 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]

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

[DUR0375]

45. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:

(a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.

(b) The chute shall be located in a position approved by the Principal Certifying Authority.

(c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.

[DUR0385]

46. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.  
[DUR0395]
47. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.  
[DUR0405]
48. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.  
[DUR0415]
49. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited.  
[DUR0815]
50. 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]
51. 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]
52. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.  
[DUR1685]
53. Where a building or part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428.  
[DUR1695]
54. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia.  
[DUR1705]
55. Pursuant to the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access

for the disabled in accordance with the relevant provisions of AS1428- Design for Access and Mobility.

[DUR1725]

56. 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]

57. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blown from the site.

[DUR2185]

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

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

[DUR2485]

59. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500.

[DUR2495]

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

[DUR2535]

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

[DUR2545]

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

- \* 45°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- \* 50°C in all other classes of buildings.



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

[DUR2555]

63. Should acid sulfate material be identified and/ or disturbed during construction, work is to cease until further soil investigation has been carried out and, where required, an acid sulfate soil management plan has been provided to the satisfaction of the general manager or delegate.
- [DURNS01]
64. Works in the vicinity of public infrastructure must comply with the following requirements;
- a) No portion of any structure may be erected within any easement for public infrastructure over the subject site. All structures shall be designed and sited such that all structure loads will be transferred to the foundation material outside of the zone of influence of any public infrastructure.
  - b) Surface treatment in the road reserve of Centennial Drive shall not include concrete and be limited to soft landscaping, noninterlocking paving, asphalt or similar treatments works as specified by Council officers, to allow ready access to the pipe for excavation. Council will not be responsible for the reinstatement of plantings, unauthorised structures or decorative surfacing in the vicinity of the pipe in the event of pipe excavation or other maintenance works.
  - c) Any fencing erected across the sewer main shall be designed and constructed with removable panels and footings located at least 1.0 metres horizontally clear of sewer main.
  - d) Trees and other landscaping that will grow to over one meter in height at maturity are not permitted within the sewer easement to prevent the tree roots intruding into sewer mains and internal sewer pipes. Landscaping within sewer easements shall be of a minor nature designed to ensure they do not damage or interfere with any part of the pipeline.
65. A suitably qualified ecologist who holds a fauna survey licence is required to manage wildlife onsite during vegetation removal. It is the responsibility of the proponents to ensure all relevant licences have been obtained prior to any fauna interactions.
66. All vegetation management measures specified in Condition 37 shall be complied with during the construction phase. Tree protection fencing may be temporarily removed during establishment of asset protection zones and landscape works.
67. Where an arboricultural impact assessment is required pursuant to Condition 29 the applicant must undertake all arboricultural management measures prescribed in the approved report and ensure a suitably experienced and qualified Project Arborist (Minimum AQF Level 5 Arborist) is appointed prior to commencement of any works. The Project Arborist is to be responsible for overseeing all vegetation management works and completing certification of tree management in accordance with any approved arboricultural impact assessment report and *Australian Standard AS4970-2009 Protection of trees on development sites*.

68. Where an arboricultural impact assessment is required pursuant to Condition 29 the applicant must comply with any directions given by the Project Arborist or Council's General Manager or delegate during the construction phase in respect to vegetation management measures employed onsite.
69. In the event that any threatened species, populations, ecological communities or their habitats are detected during operations with a high likelihood of negative impact appropriate Plans of Management for those species must be formulated to the satisfaction of the General Manager or delegate and/or the Office of Environment and Heritage. No further site clearing will take place until the Plan(s) of Management is/are approved. [DURNS03]
70. All landscaping shall be carried out in accordance with the approved landscaping plans [DURNS03]

#### PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

71. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units). [POC0205]
72. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards. [POC0225]
73. A satisfactory final inspection of the building is to be carried out by Council prior to occupation or use commencing. [POC0255]
74. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval. [POC0615]
75. The premises is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request. [POC0635]
76. 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 occupation of the building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 64 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Certificate of Compliance" signed by an authorised officer of Council.

77. 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: [POC0675]

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

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.

- [POC0860]
78. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council. Written approval from Council's General Manager or his delegate must be issued prior to the issue of an Occupation Certificate.
- [POC0865]
79. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.
- [POC1055]
80. The pre-school is to register with Council (food premises register) prior to commencement of operations.
- [POCNS01]
81. 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 an Occupation 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 an Occupation Certificate.
- [POCNS02/PSC0725]
82. Where an arboricultural impact assessment is required pursuant to Condition 29, an arboricultural certification report prepared by the Project Arborist (Minimum AQF Level 5 Arborist) shall be submitted to Council prior to the issue of the occupation certificate demonstrating compliance with:
- a. Vegetation management measures specified in Condition 37
  - b. *Australian Standard AS4970 - 2009 Protection of trees on development sites*; and
  - c. Any other tree management measure to protect retained vegetation as directed by Council's General Manager or delegate or Project Arborist during the construction period
83. All landscaping must be completed in accordance with the approved landscaping plans.
84. Habitat restoration works shall be completed to a level specified in the approved Habitat Restoration Plan prior to the issue of occupation certificate for Stage 2 and shall be maintained at all times to the satisfaction of Council's General Manager or delegate.

[POCNS03]

#### USE

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

[USE0125]

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

[USE0175]

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

[USE0175]

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

[USE0225]

89. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer.

[USE0245]

90. All plant and equipment installed or used in or on the premises:

- (a) Must be maintained in a proper and efficient condition, and
- (b) Must be operated in a proper and efficient manner.

In this condition, "plant and equipment" includes drainage systems, infrastructure, pollution control equipment and fuel burning equipment.

[USE0315]

91. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act* 2003, FSANZ Food Safety Standards and AS 4674-2004 Design, construction and Fit-out of Food Premises and other requirements of Councils Environmental health Officer included in this approval.

[USE0835]

92. The Leq15 min noise level emitted from the outdoor play area shall not exceed the background noise level by more than 10 dB at the assessment location for 'residential use', and shall not exceed 65 dB(A) when assessed at the most affected point at or within any commercial property boundary.

[USENS01]

93. Domestic dogs and cats shall not be kept on the subject site for the life of the development.

[USENS02]

**PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

94. 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.

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]

95. 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 2 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 Council's 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]

96. A Habitat Restoration Plan ('HRP') must be submitted and approved by Council prior to the the issue of subdivision certificate for the following areas of Lot 1:
- a. Assisted Habitat Restoration Area' as shown on *Dwg. No. A-108 Issue G Vegetation Management dated 14 December 2016 prepared by Redfern Lynch Designs*.
  - b. All asset protection zones and the playground as shown on *Dwg. No. A-001 Issue G Site Plan dated 14 December 2016 prepared by Redfern Lynch Designs* for Bush Stone-curlew habitat enhancement works only.

The HRP shall be prepared by a suitably qualified professional in accordance with Council's *Draft Habitat Restoration Plan Preparation Guideline dated February 2012* (attached) for the identified ecological restoration areas to include the following information:

- a. An appraisal of the present condition of remnant vegetation
- b. A plan overlaying an aerial photograph of the site which divides the area into management zones where appropriate
- c. A management strategy for each of the zones, including:
  - i. The adoption of an 'Assisted Natural Regeneration' approach
  - ii. Habitat enhancement works targeting Bush Stone-curlew
  - iii. Bush Stone-curlew fencing requirements as stipulated in Condition 21
- d. A program of works to be undertaken to remove invasive weed species (noxious and environmental weeds) and carry out Bush Stone-curlew habitat enhancement works
- e. A schedule of any materials required for Bush Stone-curlew habitat enhancement such as; fencing, positioning of large woody debris (or similar non-combustible feature), clusters of low growing plantings, maintenance of existing low cover - where consistent with the NSW RFS Standards for Asset Protection Zones
- f. A schedule of timing of proposed works
- g. Any fencing/signage requirements to restrict access and increase landholder/public awareness
- h. Nomination of key performance indicators/criteria for monitoring purposes
- i. A maintenance, monitoring and reporting schedule with developer commitment for a period not less than two (2) years for all areas the subject of the HRP
- j. An adaptive management statement detailing how potential problems

arising may be overcome and requiring approval of the General Manager or delegate for such changes.

97. A letter of authority from the NSW Department Primary Industries - Lands (or relevant agency responsible for the management of Crown Land) for any habitat restoration works occurring on proposed Lot 1 must be obtained prior to approval of the habitat restoration plan pursuant to Condition 96 and prior to the issue of construction certificate or the issue of subdivision certificate, whichever occurs first.

[PSCNS01]

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

### Asset Protection Zones

The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:

1. At the commencement of building works and in perpetuity the entire area of proposed Lot 1 shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones', except the area identified as 'Assisted Habitat Restoration Area' on the drawing titled 'Vegetation Management' prepared by Redfern Lynch Design (Drawing No. A-108, Issue G) dated 14.12.2016.

### Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

2. Water, electricity and gas are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

### Access

The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:

3. To aid in fire fighting activities, pedestrian access shall be maintained at all times around the classroom building to the northern and western asset protection zones.

### Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

4. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006', including the preparation of an emergency / evacuation plan consistent with the NSW RFS document titled 'A guide to developing a bush fire emergency management and evacuation plan'. A

copy of the plan shall be provided to the consent authority and the local Bush Fire Management Committee prior to occupation of the development.

#### Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

5. Roofing shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall be non-combustible.
6. Construction of the classroom building shall comply with Sections 3 and 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection', except the southern elevation which shall comply with Sections 3 and 6 (BAL 19) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
7. Construction of the covered walkway shall comply with Sections 3 and 6 (BAL 19) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
8. Construction of the administration building additions shall comply with Sections 3 and 6 (BAL 19) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection', except the southern and western elevations which shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
9. The existing building on proposed Lot 1 is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.
10. The proposed non-combustible fencing along the northern boundary, to the north of the classroom building and north of the sandpit, as shown on the plan titled 'Site Plan' prepared by Redfern Lynch Design (ref: Drawing No. A-001, Issue G) dated 14.12.2016, shall be constructed as a minimum 1.8 metre high radiant heat shield made of non-combustible materials. All posts and rails shall be constructed of steel. The bottom of the fence is to be in direct contact with the finished ground level or plinth.

#### Landscaping

11. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.
- b. Council notes the Preschool's letter and Community Access presentation seeking assistance with developer charges and that further consideration is given with them in accordance with the Developer Contributions - Community Organisations Policy and Business Investment Policy and that a further report be brought back to Council to deal with this matter.



The Motion was **Carried**

***FOR VOTE - Unanimous***

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**27 [E-CM] Landscaping - Northbound Service Centre, Chinderah**

**72**

**Cr K Milne  
Cr C Cherry**

**RESOLVED** that this item be deferred to 20 April 2017 Council Meeting.

The Motion was **Carried**

***FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne  
AGAINST VOTE - Cr J Owen, Cr W Polglase, Cr P Allsop***

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**41 [NOM] Pottsville & District Men's Shed - Black Rocks Licence**

**AMENDMENT 1**

**73**

**Cr K Milne  
Cr C Cherry**

**PROPOSED** that this motion be deferred to the April Council meeting for further investigation and consideration of the following options, in light of the apparent potential for a mutually beneficial outcome for the Mens Shed and the environment, and the potential to avoid waste of public funds that would be incurred in relocating the Mens Shed to a permanent site that could become available in the near future.

Short term options

1. Lease or rent of private land on a temporary basis at the expense of Council. Council has identified a Pottsville landholder today (15/3/17) that would be genuinely willing to assist! Council also has contacts for all landholders in the Pottsville area to enable investigation of other possibilities with private landholders.
2. The report into available Crown Lands that is due within 2 – 3 weeks, as advised by Geoff Provest the local State Member.
3. Council could purchase the land in Pottsville identified for Koala conservation and currently being considered by the State Government. Council's purchase of this land would fast track this process. Note this land is one minute longer from town than the

Black Rocks site and the sensitive areas are not in conflict with the proposed co-location of the Mens Shed site.

4. Request Crown Lands allow the Mens Shed temporary residence in the North Pottsville Holiday Park until a permanent site was found. Geoff Provest has provided in principle support for this option. Crown Lands may be more open to this option if only on a temporary basis whilst the park remains undeveloped, and considering the previous storage of the Mens Shed shipping container in this park.
5. Temporary location at the Barry Sheppard oval.

#### Medium term options

1. Council could advocate for Lot 3 Centennial Dr to be reserved for community purposes, including a Mens Shed, and identify other land for expansion of emergency services in a site that is less significant for community purposes.
2. Council purchase of private land in Pottsville for future community purposes including a Mens Shed.
3. State Government purchase of the Pottsville land previously identified for Koala conservation and currently being considered.

Amendment 1 was **Lost**

**FOR VOTE - Cr C Cherry, Cr R Cooper, Cr K Milne**

**AGAINST VOTE - Cr R Byrnes, Cr J Owen, Cr W Polglase, Cr P Allsop**

## **AMENDMENT 2**

**74**

**Cr K Milne  
Cr C Cherry**

**PROPOSED** that Council:

1. Rescinds its motion from the meeting held on 17 November 2016 at Minute No. 528 Item No.10 [CNR-CM] Licence for Pottsville Men's Shed at Black Rocks being:  
  
*"that:*
  1. *The determination of the licence be deferred to a future Council meeting, and that Council."*
2. Immediately grants a temporary licence to the Pottsville & District Men's Shed at the Black Rocks Sports Field for the period of 5 years; noting:
  - a) the community support of a Men's Shed at the Black Rocks site.
  - b) the division and uncertainty this issue has caused in the Pottsville Community over a long period of time.
  - c) the now evident lack of available or cost-effective alternative sites.

3. Ensures that the vital koala corridor at the Black Rocks site is monitored by Council environmental officers to ensure the protection of this endangered species.
4. That the licence be conditional on the Pottsville & District Mens Shed organisation making all reasonable efforts to locate and facilitate a permanent site and provides evidence of such on an annual basis.

Amendment 2 was **Lost**

**FOR VOTE - Cr C Cherry, Cr R Cooper, Cr K Milne**

**AGAINST VOTE - Cr R Byrnes, Cr J Owen, Cr W Polglase, Cr P Allsop**

75

**Cr R Byrnes**

**Cr W Polglase**

**RESOLVED** that Council:

1. Rescinds its motion from the meeting held on 17 November 2016 at Minute No. 528 Item No.10 [CNR-CM] Licence for Pottsville Men's Shed at Black Rocks being:

*"that:*

1. *The determination of the licence be deferred to a future Council meeting, and that Council."*
2. Immediately grants a temporary licence to the Pottsville & District Men's Shed at the Black Rocks Sports Field for the period of 5 years; noting:
  - a) the community support of a Men's Shed at the Black Rocks site.
  - b) the division and uncertainty this issue has caused in the Pottsville Community over a long period of time.
  - c) the now evident lack of available or cost-effective alternative sites.
3. Ensures that the vital koala corridor at the Black Rocks site is monitored by Council environmental officers to ensure the protection of this endangered species.

*The Motion was **Carried** - (Minute No 75 refers)*

**FOR VOTE - Cr R Byrnes, Cr J Owen, Cr W Polglase, Cr P Allsop**

**AGAINST VOTE - Cr C Cherry, Cr R Cooper, Cr K Milne**

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## RESUMPTION OF STANDING ORDERS

76

Cr K Milne  
Cr R Cooper

**RESOLVED** that Standing Orders be resumed.

***FOR VOTE - Unanimous***

## SCHEDULE OF OUTSTANDING RESOLUTIONS

### 3 [SOR-CM] Schedule of Outstanding Resolutions at 16 March 2017

The Schedule of Outstanding Resolutions was received and noted.

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## MAYORAL MINUTE

### 4 [MM-CM] Mayoral Minute for February 2017

77

Cr K Milne

**RESOLVED** that:

1. The Mayoral Minute for the month of February 2017 be received and noted.
2. The attendance of Councillors at nominated Conferences be authorised.  
  
Cr Cooper - 29-31 March - Foundations In Public Participation (IAP2) - Sydney  
Cr Milne - 25-26 May - Future of Local Government National Summit - Melbourne Victoria  
Cr Milne - 12-14 July - Ecocity World Summit - Melbourne Victoria
3. Cr C Cherry to also attend with Cr W Polglase, Cr J Owen and Cr K Milne the National General Assembly in Canberra, ACT on 18-21 June 2017.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**LATE ITEM**

**78**

**Cr K Milne  
Cr C Cherry**

**RESOLVED** that Item a4 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***

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**a4 [MM-CM] Mayoral Minute - Support for National Climate Change Adaptation Research Facility**

**79**

**Cr K Milne  
Cr C Cherry**

**RESOLVED** that Tweed Shire Council calls on the Minister for the Environment and Energy to extend funding for the National Climate Change Adaptation Research Facility (NCCARF) to enable it to continue to provide much-needed support and guidance to coastal councils in their efforts to respond to the projected impacts of climate change.

The Motion was **Carried**

***FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne, Cr J Owen, Cr P Allsop  
AGAINST VOTE - Cr W Polglase***

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**RECEIPT OF PETITIONS**

**5 [ROP-CM] Receipt of Petitions**

There were no petitions received.

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**REPORTS THROUGH THE GENERAL MANAGER**

**REPORTS FROM THE GENERAL MANAGER**

**6 [GM-CM] Sponsorship - Business Excellence Awards 2017**

**80**

**Cr W Polglase  
Cr P Allsop**

**RESOLVED** that Council endorses the level of Gold Sponsorship of the 2017 Business Excellence Awards Tweed Shire (BEATS) through a cash contribution of \$5,500.

The Motion was **Carried**

***FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr J Owen, Cr W Polglase, Cr P Allsop***

***AGAINST VOTE - Cr K Milne***

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**7 [GM-CM] Destination Tweed Quarterly Report - October to December 2016**

**81**

**Cr W Polglase  
Cr J Owen**

**RESOLVED** that Council:

1. Receives and notes Destination Tweed's Quarterly Report for the October to December 2016 quarter.
2. Endorses payment of the quarterly contract instalment in accordance with contract AC2010-073 Provision of Services for Economic Development Tourism Promotion.
3. ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**8 [GM-CM] Closure of River Street Car Parks**

**82**

**Cr K Milne  
Cr P Allsop**

**RESOLVED** that Council following extensive stakeholder consultation takes no action in relation to the removal of the two car parks in River Street, South Murwillumbah as they currently service both customer and employee parking needs of the local business community, and bring back a report on enhancing landscaping opportunities for the site.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**LATE ITEM**

**83**

**Cr K Milne  
Cr C Cherry**

**RESOLVED** that Item a8 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***

**a8 [GM-CM] Destination North Coast**

**84**

**Cr K Milne  
Cr C Cherry**

**RESOLVED** that Council not submit an expression of interest, but rather write a letter of offer to the NSW Government proposing a partnership arrangement whereby space and relevant services are supplied to Destination North Coast within the Destination Tweed facility.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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## REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 79C

#### 79C Evaluation

(1) Matters for consideration-general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
- (iii) any development control plan, and
- (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979 ),

that apply to the land to which the development application relates,

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

**Note:** See section 75P (2) (a) for circumstances in which determination of development application to be generally consistent with approved concept plan for a project under Part 3A.

The consent authority is not required to take into consideration the likely impact of the development on biodiversity values if:

- (a) the development is to be carried out on biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995 ), or
- (b) a biobanking statement has been issued in respect of the development under Part 7A of the Threatened Species Conservation Act 1995 .



- (2) Compliance with non-discretionary development standards-development other than complying development If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:
- (a) is not entitled to take those standards into further consideration in determining the development application, and
  - (b) must not refuse the application on the ground that the development does not comply with those standards, and
  - (c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,

and the discretion of the consent authority under this section and section 80 is limited accordingly.

- (3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:
- (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 80 is not limited as referred to in that subsection, and
  - (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

**Note:** The application of non-discretionary development standards to complying development is dealt with in section 85A (3) and (4).

- (4) Consent where an accreditation is in force A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.
- (5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).
- (6) Definitions In this section:
- (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and
  - (b) "non-discretionary development standards" means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

**9 [PR-CM] Approvals to Operate Markets - Kingscliff, Pottsville and Tweed Heads**

**85**

**Cr W Polglase  
Cr C Cherry**

**RESOLVED** That Council approves extension of the current Section 68 market approvals until 30 June 2017 for Pottsville, Tweed Heads, and Kingscliff (Lions Park and Jack Bayliss Park).

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**10 [PR-CM] Review: Environmental Planning and Assessment Amendment Bill 2017 - Council's Issues for Reply**

**86**

**Cr J Owen  
Cr P Allsop**

**PROPOSED** that Council:

1. Approves that a letter of submission containing the itemised list of issues; provided in the document attached to this report titled: *Review - Planning Legislation Amendments Bill 2017*, be prepared and forwarded to the NSW Department of Planning & Environment for their consideration; and
2. Receives and notes the advice summarising the proposed ePlanning Regulation amendments and initial issues noted by staff, that will inform the development of a submission to the Department of Planning and Environment for their consideration.

Cr W Polglase temporarily left the meeting at 06:31 PM.

Cr W Polglase has returned from temporary absence at 06:33 PM

## AMENDMENT 1

87

**Cr K Milne**  
**Cr C Cherry**

**RESOLVED** that Council:

1. Approves that a letter of submission containing the itemised list of issues; provided in the document attached to this report titled: *Review - Planning Legislation Amendments Bill 2017*, be prepared and forwarded to the NSW Department of Planning & Environment for their consideration; and
2. Receives and notes the advice summarising the proposed ePlanning Regulation amendments and initial issues noted by staff, that will inform the development of a submission to the Department of Planning and Environment for their consideration.
3. To ensure community confidence in the planning system Council strenuously requests the Government include the ability of all stakeholders to appeal any planning decision on merit grounds, and remove the current undemocratic inequities that allow developers merit appeal rights but restricts merit appeal rights for the community.
4. A complimentary system should be developed to facilitate an alternative option that could provide a less prohibitive and more cost effective means for planning appeals for the community, such as a tribunal.
5. Consideration should be given to allowing the community to identify where complying development may be appropriate to occur such as in new developments rather than across the board to allow more environmentally sensitive or visually significant areas to be excluded if desired.

Amendment 1 was **Carried**

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne, Cr P Allsop**  
**AGAINST VOTE - Cr J Owen, Cr W Polglase**

Amendment 1 on becoming the Motion was **Carried** - (Minute No 87 refers)

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne, Cr P Allsop**  
**AGAINST VOTE - Cr J Owen, Cr W Polglase**

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## ADJOURNMENT OF MEETING

Adjournment for dinner at 6.34pm

## RESUMPTION OF MEETING

The Meeting resumed at 7.26pm

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**12 [PR-CM] Kingscliff Locality Plan Community Consultation**

**88**

**Cr R Cooper  
Cr K Milne**

**RESOLVED** that Council adopts Option 5 - Progress the draft Kingscliff Locality Plan to formal public exhibition without additional community based workshop with the following adjustments:

- a. The Marine Parade Town Centre Precinct be limited to a building height of 11.0 metres.
- b. All other areas of medium density residential zones be limited to a building height of 12.2 metres.
- c. All mixed use and business zones be limited to a building height of 13.6 metres.
- d. The Kingscliff hill area, bounded by Moss Street/Sutherland Street and Boomerang Street/Cudgen Road be limited to a building height of 9.0 metres.
- e. This revised draft plan be brought to Council prior to public exhibition.
- f. As a consequence of the previous consultation that demonstrated support for more casual open green space, a report be bought back on the potential to facilitate this by providing for an equitable distribution between casual open green space and structured open space.

The Motion was **Carried**

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne  
AGAINST VOTE - Cr J Owen, Cr W Polglase, Cr P Allsop**

**THERE HAS BEEN A NOTICE OF RESCISSION LODGED BY COUNCILLORS J OWEN, W POLGLASE AND P ALLSOP FOR CONSIDERATION AT THE COUNCIL MEETING ON 20 APRIL 2017**

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

**13 [CNR-CM] Draft Commercial Recreation Use of Public Open Space Policy**

**89**

**Cr C Cherry  
Cr R Cooper**

**RESOLVED** that the report titled Draft Commercial Recreation Activities on Public Open Space Policy together with the results of the public consultation to date be presented to 20 April 2017 Council meeting for consideration.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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## **PROCEDURAL MOTIONS**

**90**

**Cr K Milne  
Cr R Byrnes**

**RESOLVED** that Items 14 to 26, with the exception of Items 17 and 19 be considered in block.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**91**

**Cr K Milne  
Cr R Cooper**

**RESOLVED** that Items 14 to 26, with the exception of Items 17 and 19 be moved in block.

***FOR VOTE - Unanimous***

**14 [CNR-CM] Australian Lifeguard Services Tweed Shire Council Summer Report 2016-2017**

**92**

**Cr K Milne  
Cr R Byrnes**

**RESOLVED** that the Australian Lifeguard Service Summer Report 2016-2017 be received and noted.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**15 [CNR-CM] Council Nursery**

**93**

**Cr K Milne  
Cr R Byrnes**

**RESOLVED** that:

1. Council discontinues the sale of plants to the public from the Council Nursery from 30 June 2017.
2. 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 - Unanimous***

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**16 [CNR-CM] Community Centres Business Model**

**94**

**Cr K Milne  
Cr R Byrnes**

**RESOLVED** that:

1. Council adopts the guiding principles in this report as the basis for the management of the Banora Point Community Centre, South Tweed Community Centre and Hall, Murwillumbah Community Centre and Pottsville Beach Neighbourhood Centre.
2. Council implements the guiding principles in collaboration with Banora Point Community Centre, South Tweed Community Centre and Hall, Murwillumbah Community Centre and Pottsville Beach Neighbourhood Centre.
3. Future Council Community Centres be planned and established based on the guiding principles in this report.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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18 [CNR-CM] Canvas and Kettle Meeting Room Fees

95

Cr K Milne  
Cr R Byrnes

**RESOLVED**

1. That Council adopts the following rate as the hire fee of the Canvas and Kettle Meeting Room:

Venue Hire – Canvas & Kettle, Murwillumbah Civic & Cultural Centre	Canvas & Kettle (60 persons)	Community rate (\$)	Commercial rate (\$)
	(a) Hourly	23.00	46.00
	(b) Half day or evening (4hrs)	60.00	120.00
	(c) Full day (8 hrs)	110.00	220.00

2. That the hire rates adopted at this Council meeting for the Canvas and Kettle Meeting Room be included in the Schedule of Fees and Charges for 2017/2018.

The Motion was **Carried**

***FOR VOTE - Unanimous***

19 [CNR-CM] Regional Mosquito Management Group - Councillor Representation

96

Cr P Allsop  
Cr K Milne

**RESOLVED** that Council appoints Councillor Polglase to the Regional Mosquito Management Group.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**20 [CNR-CM] 2016/2017 Quarter 1 and Quarter 2 Energy Update - Council Facilities**

**97**

**Cr K Milne  
Cr R Byrnes**

**RESOLVED** that Council notes the 2016/2017 Quarters 1 and 2 energy update for Council facilities.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**21 [CNR-CM] NSW Environmental Trust Grant 'Love Cats Love Wildlife'**

**98**

**Cr K Milne  
Cr R Byrnes**

**RESOLVED** that Council:

1. Accepts the grant offer of \$91,714 from the NSW Government's Environmental Trust for the Love Cats Love Wildlife project 2016/SL/0043.
2. Votes the expenditure to implement the project until March 2019.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**22 [CNR-CM] Public Reserves Management Fund Program for the Monitoring and On-Ground Management of Foxes and Rabbits**

**99**

**Cr K Milne  
Cr R Byrnes**

**RESOLVED** that Council:

1. Accepts the grant offer of \$29,677 from the NSW Government's Public Reserves Management Fund Program for Management of Declared Pests on the Tweed Coast Reserve.
-



2. Votes the expenditure to implement the project until December 2017.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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## REPORTS FROM THE DIRECTOR ENGINEERING

### 23 [E-CM] RFO2016164 Supply of 2 x Heavy Commercial 6x4 Truck Cab Chassis and Build and Supply of 2 x 10CM Tipper Bodies

100

Cr K Milne

Cr R Byrnes

**RESOLVED** that in respect to Contract RFO2016164:

1. Council awards the contract for Supply of 2 x Heavy Commercial 6x4 Truck Cab Chassis' to Gold Coast Isuzu (ABN 47010210723, ACN 010210723) for the amount of \$300,458 (exclusive of GST).
2. Council awards the contract for Build and Supply of the 2 x 10CM Tipper Bodies to Vince McNamara Engineering (ABN 58103518878, ACN 103518878) for the amount of \$79,672 (Exclusive of GST)
3. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council six monthly and at finalisation of the contract.
4. 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 - Unanimous***

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**24 [E-CM] RFO2016204 Supply of 1 x Heavy Commercial Truck Cab Chassis and Build and Supply of 1 x 10CM Tipper Body**

**101**

**Cr K Milne  
Cr R Byrnes**

**RESOLVED** that in respect to Contract RFO2016204:

1. Council awards the contract for Supply of One (1) Heavy Commercial Truck Cab Chassis to Gold Coast Isuzu (ABN 47010210723, ACN 010210723) for the amount of \$143,018 (exclusive of GST).
2. Council awards the contract for Build and Supply One (1) 10CM Tipper Body to Vince McNamara Engineering (ABN 58103518878, ACN 103518878) for the amount of \$40,090 (Exclusive of GST).
3. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council six monthly and at finalisation of the contract.
4. ATTACHMENTS 1 and 2 are 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 - Unanimous***

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**25 [E-CM] RFO2016154 Supply of Medium Commercial Truck Cab Chassis and Supply of Tray Body**

**102**

**Cr K Milne  
Cr R Byrnes**

**RESOLVED** that in respect to Contract RFO2016154:

1. Council awards the contract for Supply of One (1) Medium Commercial Truck Cab Chassis to Gold Coast Isuzu (ABN 47010210723, ACN 010210723) for the amount of \$38,736.67 (exclusive of GST).

2. Council awards the contract for Build and Supply of the Tray Body to Duralloy Truck Bodies Pty Ltd (ABN 36589631051, ACN 129788192) for the amount of \$9,950.91 (Exclusive of GST)
3. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council six monthly and at finalisation of the contract
4. 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 - Unanimous***

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**26 [E-CM] Classification of Land as Operational - 683 Doon Doon Road, Doon Doon**

**103**

**Cr K Milne  
Cr R Byrnes**

**RESOLVED** that Council, in accordance with Section 31 of the Local Government Act, 1993, classifies Lot 4 DP 605354 being 683 Doon Doon Road, Doon Doon as Operational Land.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**27 [E-CM] Landscaping - Northbound Service Centre, Chinderah**

Considered at Minute Number 72.

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**28 [E-CM] Provision of Water and Wastewater Services to Kings Forest**

Cr K Milne declared a Non-Significant, Non-Pecuniary Interest in Item 28. 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.

**104**

**Cr W Polglase  
Cr P Allsop**

**RESOLVED** that:

1. Council issues a letter to Northern Water Solutions (NWS) advising it is technically feasible for Council to provide bulk water and receive treated wastewater from NWS for the Kings Forest Development subject to:
  - a) Determining the impact on Council's infrastructure.
  - b) Developing an agreement which ensures Council is not disadvantaged.
  - c) A further resolution of Council approving the negotiated agreement.
2. ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

The Motion was **Carried**

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr J Owen, Cr W Polglase, Cr P Allsop  
AGAINST VOTE - Cr K Milne**

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**29 [E-CM] Easements for Support - The Anchorage**

**105**

**Cr P Allsop  
Cr R Cooper**

**RESOLVED** that Council:

1. Approves the creation of an Easement for Support 2 wide within the common properties of SP 61332, SP 53964, SP 52408, SP 52406 and within Lot 1 DP 270102 for the benefit of Lot 268 DP 865924;
2. Approves the creation of an Easement for Support Variable Width within the common property of SP 45455 for the benefit of Lot 268 DP 865924; and

3. Executes all documentation under the Common Seal of Council.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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## REPORTS FROM THE DIRECTOR CORPORATE SERVICES

### 30 [CS-CM] Community Engagement Strategy

106

Cr W Polglase  
Cr P Allsop

**PROPOSED** that:

1. Council receive and note the report.
2. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

### AMENDMENT 1

107

Cr K Milne  
Cr R Cooper

**RESOLVED:**

1. that the report be deferred to 20 April 2017 Council meeting.
2. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

The Motion was **Carried**

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne, Cr J Owen, Cr W Polglase**  
**AGAINST VOTE - Cr P Allsop**

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**31 [CS-CM] Australian Local Government Association 2017 - General Assembly - Call for Motions**

**108**

**Cr C Cherry  
Cr K Milne**

**RESOLVED** that a Councillor Workshop be conducted at an appropriate time to determine suitable motions to be submitted to the Australian Local Government Association 2017 General Assembly.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**32 [CS-CM] In Kind and Real Donations - October to December 2016**

**109**

**Cr J Owen  
Cr P Allsop**

**RESOLVED** that Council notes the total donations of \$140,874.86 for the period October to December 2016.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**33 [CS-CM] Draft Community Strategic Plan 2017/2027 "Living and Loving the Tweed"**

**110**

**Cr J Owen  
Cr P Allsop**

**PROPOSED** that the Community Strategic Plan 2017/2027 "Living and Loving the Tweed" be adopted.

**AMENDMENT 1**

111

**Cr K Milne  
Cr C Cherry**

**RESOLVED** that this report be deferred to 6 April 2017 Council Meeting.

Amendment 1 was **Carried**

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne  
AGAINST VOTE - Cr J Owen, Cr W Polglase, Cr P Allsop**

Amendment 1 on becoming the Motion was **Carried** - (Minute No 111 refers)

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne  
AGAINST VOTE - Cr J Owen, Cr W Polglase, Cr P Allsop**

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**35 [CS-CM] Enterprise Risk Management Policy**

112

**Cr J Owen  
Cr P Allsop**

**RESOLVED** that Council receives and notes the Draft Enterprise Risk Management Policy Version 2, and places it on public exhibition for a period of 28 days seeking comments for 42 days and requests Council officers prepare a report to Council following the close of the exhibition period, seeking adoption.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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**36 [CS-CM] Review of Markets Policy**

113

**Cr K Milne  
Cr C Cherry**

**RESOLVED** that Council exhibits the draft Markets Policy, Version 2.0, including the following guiding principles:

Social and Cultural Enhancement

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Supporting and enhancing the cultural integrity and values of the community including capacity for social interactions, music and entertainment.

for a period of 28 days and accepts public submissions for a period of 42 days as per Section 160 of the Local Government Act 1993.

The Motion was **Carried**

***FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne, Cr J Owen, Cr P Allsop***

***AGAINST VOTE - Cr W Polglase***

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**37 [CS-CM] Compliments and Complaints Analysis Report for the Period 1 October to 31 December 2016**

114

**Cr C Cherry  
Cr K Milne**

**RESOLVED** that Council receives and notes the Compliments and Complaints Analysis Report for the Period 1 October to 31 December 2016.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**38 [CS-CM] Monthly Investment and Section 94 Developer Contribution Report for Period Ending 28 February 2017**

**Refer to addendum report a38.**

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**a38 [CS-CM] Monthly Investment and Section 94 Development Contribution Report for Period ending 28 February 2017**

115

**Cr P Allsop  
Cr W Polglase**

**RESOLVED** that in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at period ending 28 February 2017 totalling \$271,732,522 be received and noted.

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The Motion was **Carried**

**FOR VOTE - Unanimous**

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**ORDERS OF THE DAY**

**39 [NOR-Cr J Owen) Truck Purchases by Council**

**NOTICE OF RESCISSION:**

**116**

**Cr J Owen  
Cr P Allsop**

**RESOLVED** that the resolution from the meeting held on 18 June 2015 at Minute No 371 Item No C2 titled [NOM] Truck Purchases by Council being:

*"That:*

- 1. Delegated Authority be amended so that all truck purchases are reported to Council for determination.*
- 2. Officers tender assessment be based on criteria weightings included in the Councillor's background information."*

***be rescinded.***

The Motion was **Carried**

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne, Cr J Owen, Cr W Polglase  
AGAINST VOTE - Cr P Allsop**

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**40 [NOM] Round Table Discussions**

**117**

**Cr C Cherry  
Cr K Milne**

**RESOLVED** that this item be deferred to the 20 April 2017 Council meeting.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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**41 [NOM] Pottsville & District Men's Shed - Black Rocks Licence**

Considered at Minute Number 75

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**42 [NOM] Code of Meeting Practice - Amendments to Meeting Times**

118

**Cr J Owen  
Cr W Polglase**

**RESOLVED** that amendments (underlined below) be made to the following parts of the Code of Meeting Practice to cater for altered commencement of Community Access and Council and Planning Committee Meetings.

*"4.1.2 Time Limits on Council Meetings*

- (a) An Ordinary, Extraordinary, Special Meeting or Planning Committee which commences at 6.00pm, will be scheduled to conclude at 11.00pm (with a meal break between 7.30pm and 8.15pm).*
- (b) If the business of the meeting is unfinished at 11.00pm, a resolution of the Council will be necessary to extend the time of the meeting."*

*and*

*"PART 13 – COMMUNITY ACCESS*

*Community Access sessions will be incorporated into both the Planning Committee and Council Meeting format and these sessions will be conducted prior to these scheduled meetings from 5.00pm until 5.45pm."*

The Motion was **Carried**

**FOR VOTE - Unanimous**

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**43 [NOM] Planting of Native Tree Species**

119

**Cr P Allsop  
Cr J Owen**

**RESOLVED** that Council puts forward a strategy to propagate and plant native tree species that:

1. Provides shade;
-

2. Attract bees which pollinate our plants and crops and will assist the apiarist (bee keeping) industry in the Shire; and
3. Leptospermum species be included in the strategy for their high anti-bacterial properties

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**44 [NOM] Gold Coast Airport**

**120**

**Cr K Milne  
Cr C Cherry**

**RESOLVED** that Council requests information on the current and predicted air pollution levels and numbers of residents in Tweed directly affected by aircraft emissions and noise impacts.

The Motion was **Carried**

***FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne  
AGAINST VOTE - Cr J Owen, Cr W Polglase, Cr P Allsop***

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**45 [NOM] Independent Review of Tweed's District Water Supply and Demand Management Reports 2010**

**121**

**Cr K Milne  
Cr C Cherry**

**RESOLVED** that

1. A comprehensive independent review of Council's Tweed District Water Supply, Demand Management and Drought Management reports be undertaken, as a matter of priority, to determine if those recommendations are still relevant, if new technological advances are available or now affordable, and to give further peer reviewed consideration for the most ecologically sustainable, climate change resilient, cost effective and socially acceptable long term water management and augmentation options available.
  - a) Such a review should include, but not be limited to, consideration of the full range of demand management, drought security, and supply options available.

- b) This review to be undertaken concurrently with the progression of the current planning processes and land acquisitions for the raising of the Clarrie Hall Dam wall,
- 2 The community working group that was previously established to consider the water augmentation options be reconvened (with the exception for new Councillor representatives, and any vacancies to be advertised), to recommend the terms of reference for the review, recommend the selection criteria and weightings for selecting a preferred consultant for the review, and as a project reference group for the review.

The Motion was **Carried**

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne**  
**AGAINST VOTE - Cr J Owen, Cr W Polglase, Cr P Allsop**

**THERE HAS BEEN A NOTICE OF RESCISSION LODGED ON THIS ITEM BY COUNCILLORS J OWEN, W POLGLASE AND P ALLSOP FOR CONSIDERATION AT THE ORDINARY COUNCIL MEETING ON 20 APRIL 2017.**

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#### **PROCEDURAL MOTION (10pm)**

**122**

**Cr C Cherry**  
**Cr P Allsop**

**RESOLVED** that the meeting continue until the end of proceedings.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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#### **46 [NOM] Heavy Vehicle Load Limits and Cost Recovery**

**123**

**Cr K Milne**  
**Cr C Cherry**

**PROPOSED** that Council notes:

1. The strong desire of the community for high standards in the road network for driver comfort, to reduce wear and tear on vehicles, and for significant safety reasons.
  2. The significant costs of road, bridge and culvert maintenance to Council and the community.
  3. The historical low standard of many of Tweed's rural roads and waterway crossings.
-

4. Damage that can be caused to the road network by heavy vehicles, and
5. The current lack of cost recovery for heavy vehicle use and consequent subsidy by the general ratepayer.
6. A report will be brought back on cost recovery for heavy vehicle use.

Cr W Polglase temporarily left the meeting at 10:02 PM.

Cr W Polglase has returned from temporary absence at 10:05 PM

The Motion was **Lost**

**FOR VOTE - Cr C Cherry, Cr R Cooper, Cr K Milne**

**AGAINST VOTE - Cr R Byrnes, Cr J Owen, Cr W Polglase, Cr P Allsop**

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## REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

### 47 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 16 February 2017

124

Cr K Milne

Cr J Owen

**RESOLVED** that:

1. The Minutes of the Local Traffic Committee Meeting held Thursday 16 February 2017 be received and noted; and
2. The Executive Management Team's recommendations be adopted as follows:

SECTION A - FORMAL ITEMS SECTION - DELEGATIONS FOR REGULATORY DEVICES FOR ENDORSEMENT BY COUNCIL:

A. FORMAL ITEMS SECTION

DELEGATIONS FOR REGULATORY DEVICES - MURWILLUMBAH

A1 [LTC] Tweed Foodie Fest Event - Taste the Tweed - 27 May 2017

*That the temporary road closure of Murwillumbah Street and Wharf Street between Brisbane Street and Commercial Road from 14:00 to 23:00 on Saturday 27 May 2017 for the Tweed Foodie Fest be supported, subject to evidence of support from the Murwillumbah District Business Chamber and standard conditions as follows:*

1. *Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.*
-

2. *Community and affected business consultation addressing raised concerns.*
3. *The event organiser notifies Tweed Shire residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.*
4. *Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.*
5. *Adequate public liability insurance being held by the event organiser.*
6. *All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.*
7. *Consultation with emergency services and any identified issues addressed.*
8. *Arrangements made for private property access and egress affected by the event.*
9. *That the applicant organise for the event to be listed on Council's Calendar of Events web page. Go to [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au) Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the event details.*
10. *The submission and approval of a Community Event application/Major Event application and compliance with any conditions imposed therein.*
11. *A report be provided to Council, by the event organiser, within 2 weeks of conduct of the event, showing compliance with the above conditions.*

A2 [LTC] Tweed Foodie Fest Event - Taste the Tweed - 29 September 2017

*That the temporary road closure of Murwillumbah Street and Wharf Street Murwillumbah between Brisbane Street and Commercial Road from 17:00 to 23:00 on Friday 29 September 2017 for the Tweed Foodie Fest be supported subject to evidence of support from the Murwillumbah District Business Chamber and the following standard conditions:*

1. *Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.*
2. *Community and affected business consultation addressing raised concerns.*
3. *The event organiser notifies Tweed Shire residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.*
4. *Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.*
5. *Adequate public liability insurance being held by the event organiser.*
6. *All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.*
7. *Consultation with emergency services and any identified issues addressed.*
8. *Arrangements made for private property access and egress affected by the event.*

9. *That the applicant organise for the event to be listed on Council's Calendar of Events web page. Go to [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au) Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the event details.*
10. *The submission and approval of a Community Event application/Major Event application and compliance with any conditions imposed therein.*
11. *A report be provided to Council, by the event organiser, within 2 weeks of conduct of the event, showing compliance with the above conditions.*

A3 [LTC] 2017 Battle on the Border

*That the proposed 2017 Battle on the Border on Friday 28, Saturday 29, Sunday 30 April and Monday 1 May 2017 be supported, subject to:*

1. *NSW Police approval being obtained.*
2. *Endorsement of the event by Cycling/Triathlon NSW.*
3. *Conformance with a Traffic Management Plan and associated Traffic Control Plans implemented and controlled by Roads & Maritime Services accredited persons.*
4. *Community and affected business consultation addressing raised concerns.*
5. *The event organiser notifies Tweed Shire residents of the impact of their event by advertising in the Tweed Link at their expense a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.*
6. *Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.*
7. *Adequate public liability insurance being held by the event organiser.*
8. *All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.*
9. *Consultation with emergency services and any identified issues addressed.*
10. *Arrangements made for private property access and egress affected by the event.*
11. *That the applicant organise for the event to be listed on Council's Calendar of Events web page. Go to [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au) Our Community/Festivals Events and Filming/Calendar of Events and access the Calendar of Events site to upload the event details.*
12. *The submission and approval of a Community Event application/Major Event application and compliance with any conditions imposed therein.*
13. *The event be conducted in accordance with the current RMS Guidelines for Bicycle Road Races to ensure consistency across the network.*
14. *A report be provided to Council, by the event organiser, within 2 weeks of conduct of the event, showing compliance with the above conditions.*

DELEGATIONS FOR REGULATORY DEVICES - TWEED HEADS

A4 [LTC] Marine Parade, Kingscliff - Long Table Dinner Event 13 May 2017

*That Council notes that Item A4 [LTC] Marine Parade, Kingscliff - Long Table Dinner Event 13 May 2017 item is withdrawn.*

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A5 [LTC] Pearl Street, Kingscliff

*That yellow No Stopping lines be extended from 6m south of 81 Pearl Street to 79 Pearl Street, Kingscliff.*

A6 [LTC] Boyd Street, Tweed Heads

*That the installation of a refuge and slow point on Boyd Street, near the Tweed Day Surgery be deferred subject to community consultation with adjacent residents and business operators.*

The Motion was **Carried**

***FOR VOTE - Unanimous***

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## **CONFIDENTIAL COMMITTEE**

### **EXCLUSION OF PRESS AND PUBLIC**

125

**Cr C Cherry**

**Cr K Milne**

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

The Motion was **Carried**

***FOR VOTE - Unanimous***

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

(Refer Minute **69**)

**Cr K Milne**

**Cr C Cherry**

**RESOLVED** that Items 17 and 34 be moved to confidential.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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## **CONFIDENTIAL ITEMS FOR CONSIDERATION**

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

### **REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE**

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

##### **17 [CNR-CM] Allocation of Community Sponsorship Policy**

##### **C 18**

That:

1. Council distribute the funds as per the confidential table and that the remaining funds (\$1,686.10) be rolled over to the next round of funding.
2. Successful applicants are required to:
  - a) Acknowledge the contribution to the project by Council in all printed, written and promotional items including media releases and social media.
  - b) Sign a sponsorship agreement with Council and at the completion of their project must complete the official Acquittal and Project Finalisation Report Form.
  - c) Provide a copy of Certificate of Currency for Public Liability Insurance or provide evidence of ability to obtain insurance for events which are open to the general public. This will be required prior to the release of funds.
3. 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).

***FOR VOTE - Unanimous***

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## REPORTS FROM THE DIRECTOR CORPORATE SERVICES IN COMMITTEE

### 34 [CS-CM] RFO2016189 Supply and Maintenance of Multifunction Devices and Printers

#### C 19

That in respect to Contract RFO2016189 Supply and Maintenance of Multifunction Devices (MFDs) and Printers:

1. Council awards the contract to CSG Enterprise Solutions (ABN 52092253702) for the amount of \$685,911 (exclusive of GST).
2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council at mid contract and finalisation of the contract.
3. ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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## REPORTS FROM THE GENERAL MANAGER IN COMMITTEE

### C1 [GM-CM] DA15/1069 - Business Investment Policy

#### REASON FOR CONFIDENTIALITY:

This report deals with commercial-in-confidence discussions relating to eligibility of the approved development under the Business Investment Policy.

#### 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: -

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

**C 20**

That Council:

1. Enters into an agreement with Mr JS Burnett and Mrs S Rees-Burnett for Tweed Roads Contributions Charges (s.94) developer charges resulting from DA15/1069 over a six year period.
2. Endorses all documentation under the Common Seal of Council.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**C2 [GM-CM] DA16/0031 - Business Investment Policy**

**REASON FOR CONFIDENTIALITY:**

This report deals with commercial-in-confidence discussions relating to eligibility of the approved development under the Business Investment Policy.

**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: -

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

**C 21**

That Council:

1. Enters into an agreement with Mr B Burnett to Tweed Roads Contributions Charges (s.94) developer charges resulting from DA16/0031 over a six year period.
2. Endorses all documentation under the Common Seal of Council.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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## REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

### **C3 [PR-CM] Unauthorised Activities at Lot 20 DP 755714 & Lot 2 DP 1148316 No. 3222 Kyogle Road, Mount Burrell**

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

This report concerns personal and legal matters.

#### **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: -

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

#### **C 22**

That Council gives delegated authority to the General Manager to commence winding up proceedings against Wollumbin Horizons Pty Ltd if he forms the view that it is to the benefit of the Land and Environment Court proceedings.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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### **C4 [PR-CM] Tanglewood Sewerage Scheme**

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

The outcome of this report may result in legal action and therefore is to be considered as a confidential report.

#### **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: -

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

Cr R Cooper temporarily left the meeting at 10:46 PM.

#### **C 23**

To protect Hillpalm and the property owners from liability under the Protection of the Environment and Operations Act (POEO Act) and Council from civil liability, and to encourage an equitable sewage solution to be implemented at Tanglewood, the following actions are recommended:

That Council:

1. *Does not support any proposal by Hillpalm to decommission the existing plant until an alternative sewage solution is in place;*
2. *Write to Hillpalm and advise that Council acknowledges the offer of land and \$50,000 towards the upgrade of the existing STP, however, the state of the plant requires a \$1.8m upgrade and accepting this offer is not in the best interests of our ratepayers and is not accepted. Further, a STP is a very expensive option and is cost prohibitive for users and is not Council's preferred option. The offer also has the following deficiencies, there is no wet and dry weather land application area proposed and all costs for decommissioning the STP will need to be borne by Hillpalm;*
3. *Write to IPART and request that the Minister not prosecute Hillpalm for failing to obtain a WIC licence while they are actively seeking a long term resolution for sewage at Tanglewood. Noting in particular their offer to provide land at no charge. Further that the Minister allow a further 12 month extension to resolve this matter in light of actions Council is initiating under the provisions of the POEO Act in recommendation 4-8 below;*
4. *Issue a notice under the POEO Act to require Hillpalm to upgrade the existing STP so it is not at imminent risk of failure. This is not a requirement to provide a new plant;*
5. *After any pollution incident, action may be taken under the POEO Act against Hillpalm for failing to maintain the STP;*
6. *After further consultation with Council's solicitors, issue a notice under the Local Government Act or the POEO Act to the Owners Corporations and/or each individual unit requiring them to implement an alternative sewage solution within 6 months, on land provided by Hillpalm if this land is still available or an alternative solution;*
7. *After further consultation with Council's solicitors, issue a notice under the Local Government Act or the POEO Act to individual properties requiring them to make private on-site sewage management arrangements within 6 months;*
8. *After any pollution incident (in point 5) may take action under the POEO Act against the generators of the waste if they continue to discharge sewage into a failing STP or onto ground; and*
9. *Write to all stakeholders to carefully explain the reason that action under the POEO Act and Local Government Act is required and to offer to continue to assist to mediate a solution in line with the OSSM proposal by their joint environmental consultant HMC Environmental.*

The Motion was **Carried**

**FOR VOTE - Unanimous**  
**ABSENT. DID NOT VOTE - Cr R Cooper**

Cr R Cooper has returned from temporary absence at 10:48 PM

**aC4 [PR-CM] Class 1 Appeal for Development Application DA16/0059 for the Demolition of Existing Building, Erection of Service Station and Ancillary Signage at Lot 5 DP 1123670 Tweed Valley Way and Roadworks in Alma Street, Hayes Lane and Tweed Valley Way, South Murwillumbah**

**REASON FOR CONFIDENTIALITY:**

This application is subject to a Class 1 Appeal.

**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: -

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

**C 25**

That Council's solicitors be instructed and consultants engaged to defend the Class 1 Appeal against Council's refusal of DA16/0059. External consultants will be required to defend the appeal as the officers recommended approval of the application.

The Motion was **Carried**

**FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne, Cr P Allsop**  
**AGAINST VOTE - Cr J Owen, Cr W Polglase**

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**bC4 [PR-CM] Class 1 Appeal Development Application DA16/0355 for a 60 Lot Subdivision at Lot 1 DP 779976 No. 26 Tringa Street, Tweed Heads West**

**REASON FOR CONFIDENTIALITY:**

This report concerns legal matters that could influence the appeal process.

**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: -

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

**C 27**

That Council instructs its solicitors to defend the Class 1 Appeal in the Land and Environment Court received in respect of Council's refusal of DA16/0355 for a 60 lot subdivision at Lot 1 DP 779976 No. 26 Tringa Street, Tweed Heads West.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**C 28**

**Cr R Byrnes  
Cr K Milne**

**RESOLVED** that the Committee resumes in Open Council.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**126**

**Cr R Byrnes  
Cr K Milne**

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

The Motion was **Carried**

***FOR VOTE - Unanimous***

There being no further business the Meeting terminated at 10.55pm



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

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**Chairman**