



**TWEED**  
SHIRE COUNCIL

**Mayor:** Cr K Milne

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

# Minutes

## **Planning Committee Meeting Thursday 2 February 2017**

held at **Council Chambers, Murwillumbah Civic & Cultural Centre,  
Tumbulgum Road, Murwillumbah** commencing at 5.00pm

## 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.

**THIS PAGE IS BLANK**

The Meeting commenced at 5.08pm.

### **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.

### **APOLOGIES**

Nil.

### **DISCLOSURE OF INTEREST**

**Cr C Cherry** declared a Non-Significant, Non-Pecuniary Interest in Item 2 [PR-PC] Development Application DA16/0692 for Markets - Phillip Street Reserve at Lot 7069 DP 1113590 Coronation Avenue, Pottsville. Cr C Cherry advised that she is a volunteer at these markets.

Cr C Cherry advised that she 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**

Nil.

### **SCHEDULE OF OUTSTANDING RESOLUTIONS**

Nil.

### **REPORTS THROUGH THE GENERAL MANAGER**

Nil.

---

## REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

### PROCEDURAL MOTIONS

P 1

Cr W Polglase  
Cr K Milne

**RESOLVED** that Items 1 to 4 be considered in block.

The Motion was **Carried**

***FOR VOTE - Unanimous***

P 2

Cr W Polglase  
Cr K Milne

**RESOLVED** that Items 1 to 4 be moved in block.

The Motion was **Carried**

***FOR VOTE - Unanimous***

1            **[PR-PC] Development Application DA16/0733 for Markets - Knox Park at Lot 2 DP 1220632 Brisbane Street, Murwillumbah**

P 3

Cr W Polglase  
Cr K Milne

**RECOMMENDED** that Development Application DA16/0733 for markets - Knox Park at Lot 2 DP 1220632 Brisbane Street, Murwillumbah be approved subject to the following conditions:

### GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Tweed Shire Council and undated, except where varied by the conditions of this consent. [GEN0005]
2. 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]
3. Hours of operation of the market are restricted to the third Saturday of each month between 7am and 6pm which involves operating from 8am to 5pm and set up and pack up times to the satisfaction of the General Manager or his delegate, unless otherwise stated in the adopted market management plan.

[USE0185]

4. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act* 2003, FSANZ Food Safety Standards and any other requirements of Councils Environmental Health Officer included in this approval.

[USE0835]

5. The market shall be operated strictly in accordance with the Local Government Act Section 68 approval to operate conditions of approval and the adopted/approved Market Management Plan to the satisfaction of the General Manager or his delegate.

6. Current public liability insurance shall be maintained by the market operator at all times that a market is conducted.

7. The market operator or their employee shall be present to supervise the site at all times during the market operations.

8. The market shall be subject to periodic inspection by Council's Authorised Officer.

9. The sale of food is permissible subject to compliance with the NSW Food Authority's Food Handling Guidelines for Temporary Events and the NSW Food Act 2003 to the satisfaction of the General Manager or his delegate. All food businesses and vendors shall be registered with Council to the satisfaction of the General Manager or his delegate.

[USENS01]

10. The area utilised for markets shall be maintained in a clean and tidy manner. All waste materials and miscellaneous items shall be removed from the Park after the completion of market operation to the satisfaction of the General Manager or his delegate.

11. Prior to the commencement of use an Approval to engage in a trade or business on community land under Section 68 of the Local Government Act 1993 shall be obtained from Council.

[USENS02]

12. The market operator must liaise with Council's park management staff regarding condition of the grounds, particularly after rain. Should the grounds not be considered suitable for the activity, Council will retain the right to close the park to the market until the grounds are suitable.

[USENS03]

13. Car parking on the site must remain available for vehicles. No stalls are to be located within the Knox Park car park.

14. Markets are to have a maximum of 50 stalls, unless an adequate traffic assessment supporting the proposal is approved by the General Manager or his delegate and forms part of the Market Management Plan.

15. An Evacuation Management Plan shall be developed and approved by the General Manager or delegate prior to issue of approval under Section 68 of the Local Government Act 1993.

[USENS04]

The Motion was **Carried**

**FOR VOTE - Unanimous**

---

**2 [PR-PC] Development Application DA16/0692 for Markets - Phillip Street Reserve at Lot 7069 DP 1113590 Coronation Avenue, Pottsville**

**DECLARATION OF INTEREST**

**Cr C Cherry** declared a Non-Significant, Non-Pecuniary Interest in this item. Cr C Cherry advised that she is a volunteer at these markets.

Cr C Cherry managed the Interest by staying in the Chamber and voting on the merits of the matter.

**P 4**

**Cr K Milne  
Cr W Polglase**

**RECOMMENDED** that Development Application DA16/0692 for markets - Phillip Street Reserve at Lot 7069 DP 1113590 Coronation Avenue, Pottsville be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Tweed Shire Council and undated, except where varied by the conditions of this consent. [GEN0005]
2. 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]
3. Hours of operation of the market are restricted to the first and third Sunday of each month between 7am and 6pm which involves operating from 8am to 5pm and set up and pack up times to the satisfaction of the General Manager or his delegate, unless otherwise stated in the adopted market management plan. [USE0185]
4. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act 2003* and Food Safety Standards Code and any other requirements of Councils Environmental Health Officer included in this approval. [USE0835]
5. The market shall be operated strictly in accordance with the Local Government Act Section 68 approval to operate conditions of approval and the adopted/approved Market Management Plan to the satisfaction of the General Manager or his delegate.



6. Current public liability insurance shall be maintained by the market operator at all times that a market is conducted.
7. The market operator or their employee shall be present to supervise the site at all times during the market operations.
8. The market shall be subject to periodic inspection by Council's Authorised Officer.
9. The sale of food is subject to compliance with the NSW Food Authority's Food Handling Guidelines for Temporary Events and the NSW Food Act 2003 to the satisfaction of the General Manager or his delegate. All food businesses and vendors shall be registered with Council.  
[USENS01]
10. The area utilised for markets shall be maintained in a clean and tidy manner. All waste materials and miscellaneous items shall be removed from the Park after the completion of market operation to the satisfaction of the General Manager or his delegate.
11. Prior to the commencement of use an Approval to engage in a trade or business on community land under Section 68 of the Local Government Act 1993 shall be obtained from Council.  
[USENS02]
12. The market operator must liaise with Council's park management staff regarding condition of the grounds, particularly after rain. Should the grounds not be considered suitable for the activity, Council will retain the right to close the park to the market until the grounds are suitable.  
[USENS03]
13. An Evacuation Management Plan shall be developed and approved by the General Manager or delegate prior to issue of approval under Section 68 of the Local Government Act 1993.
14. A traffic controller directing pedestrians crossing Coronation Avenue is required onsite during hours of operation of the market. This requirement to be included within any Traffic Management Plan that forms part of the Market Management Plan to be approved by Council under Section 68 of the Local Government Act 1993.  
[USENS04]

The Motion was **Carried**

***FOR VOTE - Unanimous***

---

**3 [PR-PC] Development Application DA16/0689 for Markets - Recreation Ground at Part Lot 1 DP 1082080 No. 6 Park Street, Tweed Heads**

**P 5**

**Cr K Milne**

**Cr W Polglase**

---

**RECOMMENDED** that Development Application DA16/0689 for markets - Recreation Ground at Part Lot 1 DP 1082080 No. 6 Park Street, Tweed Heads be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Tweed Shire Council, undated, except where varied by the conditions of this consent.  
[GEN0005]
2. 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]
3. Hours of operation of the market are restricted to Sundays between 7am and 6pm which involves operating from 8am to 5pm and set up and pack up times to the satisfaction of the General Manager or his delegate, unless otherwise stated in the adopted market management plan.  
[USE0185]
4. Any premises used for the storage, preparation or sale of food shall comply with the *Food Act 2003* and Food Safety Standards Code and any other requirements of Council's Environmental Health Officer included in this approval.  
[USE0835]
5. The market shall be operated strictly in accordance with the Local Government Act Section 68 approval to operate conditions of approval and the adopted/approved Market Management Plan to the satisfaction of the General Manager or his delegate.
6. Current public liability insurance shall be maintained by the market operator at all times that a market is conducted.
7. The market operator or their employee shall be present to supervise the site at all times during the market operations.
8. The market shall be subject to periodic inspection by Council's Authorised Officer.
9. The sale of food is permissible subject to compliance with the NSW Food Authority's Food Handling Guidelines for Temporary Events and the NSW Food Act 2003 to the satisfaction of the General Manager or his delegate. All food businesses and vendors shall be registered with Council to the satisfaction of the General Manager or his delegate.  
[USENS01]
10. The area utilised for markets shall be maintained in a clean and tidy manner. All waste materials and miscellaneous items shall be removed from the Park after the completion of market operation to the satisfaction of the General Manager or his delegate.
11. Prior to the commencement of use an Approval to engage in a trade or business on community land under Section 68 of the Local Government Act 1993 shall be obtained from Council.  
[USENS02]

12. The market operator must liaise with Council's Park Management Staff regarding condition of the grounds, particularly after rain. Should the grounds not be considered suitable for the activity, Council will retain the right to close the park to the market until the grounds are suitable.

[USENS03]

13. An Evacuation Management Plan shall be developed and approved by the General Manager or his delegate prior to issue of the Section 68 approval.

[USENS04]

The Motion was **Carried**

***FOR VOTE - Unanimous***

---

**4 [PR-PC] Development Application DA16/0707 for Markets - Jack Bayliss Park and Lions Park Kingscliff at Reserve 1001008 Tweed Coast Road, Kingscliff**

**P 6**

**Cr K Milne**

**Cr W Polglase**

**RECOMMENDED** that Development Application DA16/0707 for Markets – Jack Bayliss Park and Lions Park Kingscliff at Reserve 1001008 Tweed Coast Road, Kingscliff be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects (SEE) prepared by Tweed Shire Council undated, except where varied by the conditions of this consent.

[GEN0005]
2. The use of the subject site for the purpose of temporary markets will cease if the land becomes unsuitable due to coastal processes or coastal hazards.

[GENNS01]
3. Prior to the commencement of use an Approval to engage in a trade or business on community land under Section 68 of the Local Government Act 1993 shall be obtained from Council.
4. An evacuation management plan shall be developed and approved by the General Manager or delegate prior to issue of the Section 68 approval for the Market activity. This plan must incorporate the bushfire protection plan reviewed by the Rural Fire Service dated December 2016.
5. The markets shall be conducted strictly in accordance with the Local Government Act Section 68 approval to operate conditions and the adopted/approved Market Management Plan to the satisfaction of the General Manager or his delegate.

[POCNS01]

6. 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]

7. Hours of operation of the business are restricted to the following hours:

Day Markets

- 26 bi-weekly events, second and fourth Saturday of the month, 8am to 5pm operating hours;
- Not prior to 7am setup and departure no later than 6.30pm,

Night Markets

- 12 monthly night events, first Friday of the month, 5pm to 9pm operating hours;
- Not prior to 4pm setup and departure no later than 10.30pm,

To the satisfaction of the General Manager or his delegate, unless otherwise stated in the approved market management plan.

[USE0185]

8. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act 2003* and other requirements of Councils Environmental Health Officer included in this approval.

[USE0835]

9. Current public liability insurance shall be maintained by the market operator at all times that a market is conducted.

10. The market operator or their employee shall be present to supervise the site at all times during the market operations.

11. The market shall be subject to periodic inspection by Council's Authorised Officer.

12. The sale of food is permissible subject to compliance with the NSW Food Authority's Food Handling Guidelines for Temporary Events and the NSW Food Act 2003 to the satisfaction of the General Manager or his delegate. All food businesses and vendors shall be registered with Council to the satisfaction of the General Manager or his delegate.

[USENS01]

13. The area utilised for markets shall be maintained in a clean and tidy manner. All waste materials and miscellaneous items shall be removed from the Park after the completion of market operation to the satisfaction of the General Manager or his delegate.

14. Amplified music such as a musician or band is permissible at the 'night market' only. Amplified music shall be performed in accordance with the acoustic report Proposed Lantern Markets, Lot 2 DP 1122062, Marine Parade, Kingscliff - Acoustic Report, Acoustic Works 19/12/2012. Amplified music shall be modified in accordance with any instruction by Council's Authorised Officer.

[USENS02]

15. All vegetation shall be retained and afforded adequate protection during operation of all approved events
16. The applicant shall incorporate a fauna management component of a Market Management Plan (MMP) to address the management and protection of the threatened Bush Stone-curlew (*Burhinus grallarius*) known to occur on the subject site. The component of the MMP shall be prepared by a suitably qualified consultant to include the following details:
  - Inspection and reporting protocol to be undertaken within a buffer area of 200m from the event site prior to each event to determine presence/absence of Bush-stone Curlew
  - Site specific management protocol to be implemented where Bush-stone Curlew are present within the event site or the 200m buffer zone. Management measures to be prescribed are to include (but not be limited to):
    - Installation of temporary awareness signage at strategic locations around the event site reinforcing:
      - The importance/significance of Bush Stone-curlew
      - The requirement for all domestic animals to be appropriately controlled and 'on-leash'
      - Driver awareness around car-parking areas
    - In the event where birds are reported nesting, the provision for adequate buffers (as determined by Council's General Manager or delegate) around the area where birds are nesting shall be provided. Buffers shall be appropriately fenced, signposted to exclude all infrastructure/activity associated with the event.
  - Post event reporting requirements.
17. All operations must comply with the fauna management component of the approved Market Management Plan.
18. This consent restricts the day time markets to 124 stalls within the mapped area and 50 stalls for the night time markets within the mapped area.

[USENS03]

The Motion was **Carried**

**FOR VOTE - Unanimous**

---

**5 [PR-PC] Development Application DA16/0822 for a Temporary Farmers Market at Lot 102 DP 873985 No. 806 Cudgen Road, Cudgen; Lot 2 DP 803772 No. 806 Cudgen Road, Kingscliff**

**P 7**

**Cr W Polglase**

**Cr J Owen**

**PROPOSED** that Development Application DA16/0822 for a farmers market at Lot 102 DP 873985 No. 806 Cudgen Road, Cudgen; Lot 2 DP 803772 No. 806 Cudgen Road, Kingscliff be approved subject to the following conditions:

1. The development shall be completed in accordance with the Statement of Environmental Effects undated, and Plans identified as follows:
  - Village Farm Markets Site Plan;
  - Toilet Facilities Plan;
  - Car parking South Plan;
  - Car parking North Plan; and
  - Traffic Management Plan;

prepared by the applicant, except where varied by the conditions of this consent.

[GEN0005]

2. The market stalls shall be limited to 100 stalls within the sealed carpark area nominated on the approved site plan.
3. Signage for the operation shall be limited to one small directional sign on the street frontage fence. No signage is permitted within the road reserve.
4. The development the subject of this consent is to cease 3 years from the date of commencement. In this regard the proponent is to advise Council in writing of the date of the first market day.
5. This market shall be limited to stalls selling fresh food or homemade foods for consumption, farmers produce and ready to consume food and beverages. The market is not permitted to include stalls selling handicraft, clothing, second hand items, jewelry, arts and crafts or homewares.
6. This development the subject of this consent is to cease if the approved educational facility expands normal classes to Saturdays or the current landuse changes.
7. An evacuation management plan shall be developed and approved by the General Manager or delegate prior to commencement of the approved use. This plan shall incorporate the Bushfire protection plan and any requirements of the Rural Fire Service.
8. Current public liability insurance shall be maintained by the market operator at all times during the market operations.

[GENNS01]

9. 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]
10. The  $L_{Aeq, 15 \text{ min}}$  noise level emitted from the premises shall not exceed the background noise level ( $L_{A90}$ ) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) at the boundary of any affected residence. [USE0165]
11. Hours of operation of the business are restricted as follows:
- Setup no earlier than 6am,
  - Market operation from 7am to 11am
  - Pack Up completed no later than 3.00pm
  - The market is to operate on Saturdays only
- unless otherwise approved in writing by the Director Planning and Regulation. [USE0185]
12. 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]
13. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act 2003*, FSANZ Food Safety Standards and Guidelines for Food Businesses at Temporary Events, Department of Primary Industries June 2016 and other requirements of Councils Environmental health Officer. [USE0835]
14. No intensification of use beyond the provision of the market management plan is permitted without the approval of the General Manager or his delegate. [USE0855]
15. All wastes shall be collected, stored and disposed of to the satisfaction of the General Manager or his delegate. Separate receptacles shall be provided for garbage and recycling for the duration of the market for patrons. The site shall be left in a clean and tidy manner. [USE0875]
16. The markets shall be operated in accordance with the Market Management Plan, Village Farm Markets and Site Plan (16 November 2016) submitted in support of the development application, to the satisfaction of the General Manager or his delegate. The location of the market within the property shall not be modified without the prior written consent of Council.
17. Live or amplified music shall not be played prior to 9.00am and shall not be audible from habitable rooms of any residence.
18. Generators shall be shielded so as not to be audible within the habitable room of any residence.
-

19. The Market Manager or their employee shall be present at the market at all times to supervise operation of the markets.
20. Markets generally, and food businesses in particular, shall be subject to periodic inspection by Council's Environmental Health Officer. Such inspections shall be subject to inspection fees in accordance with Council's adopted Management Plan and Fees and Charges.

[USENS01]

## **AMENDMENT 1**

**P 8**

**Cr K Milne**  
**Cr R Cooper**

**RECOMMENDED** that Development Application DA16/0822 for a farmers market at Lot 102 DP 873985 No. 806 Cudgen Road, Cudgen; Lot 2 DP 803772 No. 806 Cudgen Road, Kingscliff be approved subject to the following conditions:

1. The development shall be completed in accordance with the Statement of Environmental Effects undated, and Plans identified as follows:
  - Village Farm Markets Site Plan;
  - Toilet Facilities Plan;
  - Car parking South Plan;
  - Car parking North Plan; and
  - Traffic Management Plan;

prepared by the applicant, except where varied by the conditions of this consent.

[GEN0005]

2. The market stalls shall be limited to 100 stalls within the sealed carpark area nominated on the approved site plan.
3. Signage for the operation shall be limited to one small directional sign on the street frontage fence. No signage is permitted within the road reserve.
4. The development the subject of this consent is to cease 3 years from the date of commencement. In this regard the proponent is to advise Council in writing of the date of the first market day.
5. This market shall be limited to stalls selling fresh food or homemade foods for consumption, farmers produce and ready to consume food and beverages. The market is not permitted to include stalls selling handicraft, clothing, second hand items, jewelry, arts and crafts or homewares.
6. This development the subject of this consent is to cease if the approved educational facility expands normal classes to Saturdays or the current landuse changes.
7. An evacuation management plan shall be developed and approved by the General Manager or delegate prior to commencement of the approved use. This plan shall



incorporate the Bushfire protection plan and any requirements of the Rural Fire Service.

8. Current public liability insurance shall be maintained by the market operator at all times during the market operations. [GENNS01]
9. 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]
10. The  $L_{Aeq, 15 \text{ min}}$  noise level emitted from the premises shall not exceed the background noise level ( $L_{A90}$ ) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) at the boundary of any affected residence. [USE0165]
11. Hours of operation of the business are restricted as follows:
  - Setup no earlier than 6am,
  - Market operation from 7am to 11am
  - Pack Up completed no later than 3.00pm
  - The market is to operate on Saturdays only

unless otherwise approved in writing by the Director Planning and Regulation.

[USE0185]

12. 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]
13. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act* 2003, FSANZ Food Safety Standards and Guidelines for Food Businesses at Temporary Events, Department of Primary Industries June 2016 and other requirements of Councils Environmental health Officer. [USE0835]
14. No intensification of use beyond the provision of the market management plan is permitted without the approval of the General Manager or his delegate. [USE0855]
15. All wastes shall be collected, stored and disposed of to the satisfaction of the General Manager or his delegate. Separate receptacles shall be provided for garbage and recycling for the duration of the market for patrons. The site shall be left in a clean and tidy manner. [USE0875]
16. The markets shall be operated in accordance with the Market Management Plan, Village Farm Markets and Site Plan (16 November 2016) submitted in support of the development application, to the satisfaction of the General Manager or his delegate.

The location of the market within the property shall not be modified without the prior written consent of Council.

17. Live or amplified music shall not be played prior to 9.00am and shall not be audible from habitable rooms of any residence.
  18. Generators shall be shielded so as not to be audible within the habitable room of any residence.
  19. The Market Manager or their employee shall be present at the market at all times to supervise operation of the markets.
  20. Markets generally, and food businesses in particular, shall be subject to periodic inspection by Council's Environmental Health Officer. Such inspections shall be subject to inspection fees in accordance with Council's adopted Management Plan and Fees and Charges.
- [USENS01]
21. The applicant to develop a waste and sustainability plan of management, to submit to a Council meeting within 6 months of the date of this determination, for implementation by 2018. This plan to identify methods of waste reduction including **consideration** of separation of compost and recycling from general waste, and elimination of unsustainable waste, including but not limited to plastic bags and containers, plastic lined takeaway coffee cups and sugar sachets, plastic straws and polystyrene containers etc.
  22. The applicant to submit a policy to a Council meeting within 6 months of the date of this determination, in regard to **consideration** for preference to local Tweed and regional stallholders and products, for implementation by 2018.
  23. The applicant to submit a policy to a Council meeting within 6 months of the date of this determination, in regard to **consideration** of support for social and cultural advancement at the market, including payment for local musicians / entertainers and areas for social gathering, for implementation by 2018.

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 P 8 refers)

**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**

---

**6 [PR-PC] Development Application DA15/0532.01 for an Amendment to Development Consent DA15/0532 for Use of Part of Tavern Floor Area as a Retail Shop at Lot 2 Section 10 DP 2087 No. 9 Commercial Road, Murwillumbah**

The General Manager vacated the Chamber at 5.31pm during discussion and voting on this item.

**P 9**

**Cr J Owen  
Cr W Polglase**

**PROPOSED** that:

1. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
2. Council engages solicitors to undertake enforcement action to address the car park layout and construction, as well as enforcement action in relation to outstanding heritage matters at Lot 2 Section 10 DP 2087 No. 9 Commercial Road, Murwillumbah.

**AMENDMENT 1**

**P 10**

**Cr K Milne  
Cr C Cherry**

**RECOMMENDED** that the report be received and noted.

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 P 10 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**

The General Manager returned at 5.33pm

---

**7 [PR-PC] Section 94 Contributions - Tweed Heads Bowls Club**

**P 11**

**Cr W Polglase**

**Cr P Allsop**

**RECOMMENDED** that:

1. The amount of \$34,551.81 (Option B) is the outstanding Section 94 contribution for DA02/1282.
2. The General Manager advises the Tweed Heads Bowls Club in writing of the amount owing as resolved in 1 above and that payment is to be made to Council within thirty days of notification or prior to issue of a final occupation certificate whichever occurs first.
3. The General Manager negotiates a payment plan such as periodic instalments if requested by the Tweed Heads Bowls Club.

The Motion was **Carried**

***FOR VOTE - Unanimous***

---

**8 [PR-PC] Environmental Damage and Unauthorised Works at Lot 12 DP 1163855 Fraser Drive, Tweed Heads South**

**P 12**

**Cr K Milne**

**Cr R Byrnes**

**RECOMMENDED** that:

1. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
2. Council, in respect of the unauthorised erection of a container/sign at Lot 12 DP 1163855, Fraser Drive Tweed Heads South, endorse that, Council's solicitors' writes to the proponent seeking removal of the structure within 14 days, or otherwise Council will commence Class 4 civil proceedings in the NSW Land and Environment Court.

The Motion was **Carried**

***FOR VOTE - Unanimous***

---

**9 [PR-PC] Environmental Damage and Unauthorised Works at Lot 469 DP 1144944 off Henry Lawson Drive, Terranora**

**P 13**

**Cr K Milne  
Cr C Cherry**

**RECOMMENDED** that:

1. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
2. This item be deferred to the Planning Committee Meeting of 2 March 2017.

The Motion was **Carried**

***FOR VOTE - Unanimous***

---

**10 [PR-PC] Draft Preliminary Gold Coast Airport 2017 Master Plan**

This report was dealt with in conjunction with Item a10 of the Agenda. (Minute No P15 refers).

---

**LATE ITEM**

**P 14**

**Cr K Milne  
Cr C Cherry**

**RESOLVED** that Item a10 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***

**a10 [PR-PC] Draft Preliminary Gold Coast Airport 2017 Master Plan**

**P 15**

**Cr C Cherry  
Cr K Milne**

**RECOMMENDED** that:

---

1. The attached submission in reply to the draft Gold Coast Airport 2017 Draft Preliminary Master Plan is to be updated to incorporate any additional matters or amendments resolved by Council at this meeting, and
2. Council appends the following to the draft submission to the GCA master plan as follows:

*In the interests of residential amenity for Tweed residents, Council strongly reaffirms its position of opposition to any runway extension and reminds the GCA that the site is constrained by its proximity to high density residential and environmentally significant lands.*

*Council does not support the relocation of the runway 32 landing threshold 300m south and notes GCA's continued annual growth in passenger numbers under the current operational length of the runway.*

*Council requests that information is provided on the Obstacle Limitation Surface (OLS) required for the proposed relocation in regard to its further impact on the environment.*

*Due to the impact on residential amenity and the environment council opposes the increase from passenger numbers from 6 million existing to 16 million in this plans lifetime.*

*It is requested that all lands effected by PFAS be immediately remediated and management strategies developed for containment of affected surface and groundwater with monitoring programs and sampling results provided to council and state authorities.*

*Please correct the length of approved runway 14 to 2,342m on page 31, 2017 as it is inconsistent with MP 2011, p85 and effectively assumes a length that is not yet approved.*

*Council reaffirms its previous submission that environmental offsets should be located within the Cobaki Broadwater.*

3. The draft submission, as amended by Council, be forwarded to the Gold Coast Airport Pty Ltd for their consideration and reply.

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**

---

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

**P 16**

**Cr K Milne  
Cr C Cherry**

**RECOMMENDED** that Council notes the December 2016 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

***FOR VOTE - Unanimous***

---

**SUSPENSION OF STANDING ORDERS**

**P 17**

**Cr K Milne  
Cr C Cherry**

**RESOLVED** that Standing Orders be suspended to deal with the Ordinary Council Agenda.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**RESUMPTION OF STANDING ORDERS**

**P 18**

**Cr C Cherry  
Cr P Allsop**

**RESOLVED** that Standing Orders be resumed.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**CONFIDENTIAL PLANNING COMMITTEE 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 PLANNING AND REGULATION IN COMMITTEE

- C1 [PR-PC] Class 1 Appeal Development Application DA16/0527 for the Demolition of Existing Structures and Erection of a Residential Flat Building (Seven Units) and Swimming Pool at Lot 14 Section 5 DP 758571 No. 204 Marine Parade, Kingscliff**

#### **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.

#### **PC 2**

That Council engages its solicitors and consultant experts (if required) to defend the Class 1 Appeal to the refusal of DA16/0527 for the Demolition of Existing Structures and Construction of a Residential Flat Building (Seven Units) and Swimming Pool at Lot 14 Section 5 DP 758571 No. 204 Marine Parade, Kingscliff.

The Motion was **Carried**

***FOR VOTE - Unanimous***

---

- C2 [PR-PC] Class 1 Appeal Development Application DA15/0641 for a Two Lot Subdivision at Lot 7 DP 1077697 No. 768-770 Casuarina Way, Casuarina**

#### **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.

#### **PC 3**



That Council engages its solicitors and consultant experts (if required) to defend the Class 1 Appeal to the refusal of DA15/0641 for a 2 lot subdivision at Lot 7 DP 1077697 No. 768-770 Casuarina Way, Casuarina.

***FOR VOTE - Unanimous***

---

**P 19**

**Cr C Cherry**

**Cr K Milne**

**RECOMMENDED** that the recommendations of the Confidential Planning Committee be adopted.

The Motion was **Carried**

***FOR VOTE - Unanimous***

There being no further business the Planning Committee Meeting terminated at 8.57pm.



**THIS PAGE IS BLANK**