



TWEED
SHIRE COUNCIL

Mayor: Cr B Longland (Mayor)

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

Minutes

Ordinary Council Meeting Tuesday 15 May 2012

held at Murwillumbah Cultural and Civic Centre
commencing at 10.30am

COUNCIL'S CHARTER

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

Tweed Shire Council has the following charter:

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

The Meeting commenced at 10.30am.

IN ATTENDANCE

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

Also present were Mr David Keenan (General Manager), Mr Troy Green (Director Technology and Corporate Services), Mr Patrick Knight (Director Engineering and Operations), Mr Vince Connell (Director Planning and Regulation), Mr David Oxenham (Director Community and Natural Resources), Mr Neil Baldwin (Manager Corporate Governance/Public Officer) and Mrs Meredith Smith (Minutes Secretary).

ABORIGINAL STATEMENT

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

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

PRAYER

The meeting opened with a Prayer by Council's Chaplain, Reverend Chris Lindsay, Murwillumbah Presbyterian Church.

Lord God and Creator.

King David of Ancient Israel writes in Psalm 24 verse 1. 'The earth is the Lords and everything in it. The world and all who live in it.'

And this morning we confess this is sometimes an inconvenient truth. The thought that we are not the sole title holders over this world. But what we have been placed here to care and tend your creation as an expression of your care. To look after the world and our society and wise and just leadership. The sort of leadership that is good for both the natural world and also helps human fellowship flourish.

We know this not always easy. We know that self-interest and greed can cloud our best intentions. So we ask that you grant each of us sober judgement. In the way we dispense our daily labours. To do so with energy and generosity. No just looking out for what might benefit us personally.

Help us to stay mindful of how much our acts of genuine service can bring real blessing and enjoyment to others. Help each one here to make decisions and deal with complex issues in a way that purses the welfare of people in this shire.

Keep this chamber from unnecessary rancour and hostility. Give each councillor insight into how to manage competing interests so that decisions will be made that bring good to many.

Help this chamber conduct business each day with integrity. For as the wise writer of the Biblical book of Proverbs says in chapter 11 verse 3 'The integrity of the upright guides them, but the unfaithful are destroyed by their duplicity.'

Keep the women and men of this council upright and preserve them from duplicity. We ask all this with the consideration of Jesus Chris.

Amen.

CONFIRMATION OF MINUTES

1 [CONMIN] Confirmation of the Minutes of the Ordinary and Confidential Council Meetings held Tuesday 17 April 2012

261

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that the Minutes of the Ordinary and Confidential Council Meetings held Tuesday 17 April 2012 be adopted as a true and accurate record of proceedings of that meeting with the following amendments:

- Item 11, Minute 217 - Cr J van Lieshout is to be recorded as voting "for" the motion.
- Item 7 - Minute 213 - Cr D Holdom is to be recorded as voting "for" the motion.

The Motion was **Carried**

FOR VOTE - Unanimous

2 [CONMIN] Minutes of the Extraordinary Council Meeting held Tuesday 1 May 2012

262

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that the Minutes of the Extraordinary Council Meeting held Tuesday 1 May 2012 be adopted as a true and accurate record of proceedings of that meeting.

The Motion was **Carried**

FOR VOTE - Unanimous

APOLOGIES

Nil.

DISCLOSURE OF INTEREST

Cr K Milne made the following declaration with regard to Cobaki/Kings Forest.

I would like to make a statement to clarify my participation in relation to items in today's Business Papers.

I have considered the relevant provisions of Council's Code of conduct and I believe there are no impediments to me participating in debate and voting on these matters despite a defamation claim served against me, on 20 December 2010, by Mr William Robert (Bob) Ell, the owner of Kings Forest and Cobaki developments.

I am of the view that these circumstances do not create a private interest for me in these items, either directly or by association.

As many will be aware, I have had an ongoing involvement in the larger policy issues of Greenfield developments well before 20 December 2010 and I will continue to participate in discussion and voting on such matters from a public interest perspective and where an item involves consideration of a development application -on the merits of each application.

Cr D Holdom wishes to declare a pecuniary Interest in Item 3 of the Confidential Agenda which is due to a personal nature. Cr Holdom will manage the interest by leaving the chamber and not taking part in voting or discussion.

Cr K Skinner wishes to declare a significant, non pecuniary Interest in Item 1 of the Confidential Agenda. The nature of the interest is that Cr Skinner is part of the Kingscliff Business and Residents Focus Group who are involved in legal action relating to the subject report.

Cr J van Lieshout stated *"I wish to declare that I do not have a Pecuniary Interest in relation to the Byrill Creek Dam Proposal and its effect on my husband's property should it be pursued.*

I personally do not have a Conflict of Interest in this matter as I perceive my duty as a Councillor of Tweed Shire Council and the forward planning of the region as vital in representation of the constituents who placed their trust in me through the election process.

I do however believe that "as perceived by the community" I do have a "conflict of interest" and therefore will not be voting on this most important issue.

I wish to acknowledge that there have been unfair and unfounded allegations made by a minority group who have breached the democratic process of the right of the individual elected member to consider their position and responsibility in this matter.

It is disappointing that a vital part of the community will not be represented in this decision".

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

263

**Cr D Holdom
Cr W Polglase**

RESOLVED that Item 8 be transferred from Ordinary Agenda to the Confidential Agenda for discussion on legal matters, with the resolution and voting to be conducted in Open Council.

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

AGAINST VOTE - Cr K Milne

SCHEDULE OF OUTSTANDING RESOLUTIONS

3 [SOR] Schedule of Outstanding Resolution as at 15 May 2012

264

The Schedule of Outstanding Resolutions as at 15 May 2012 was received with notation as follows:

Cr K Milne requested that the outstanding resolution relating to Open Space and the provision of Community Facilities to be reinstated in the Schedule of Outstanding Resolutions.

Cr K Skinner requested that the outstanding resolution from Meeting held 15 November 2011 being:

***Cr K Skinner
Cr W Polglase***

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

to be reinstated in the Schedule of Outstanding Resolutions.

MAYORAL MINUTE

4 [MM-CM] Mayoral Minute - Period from 05 April to 03 May 2012

265

Cr B Longland

RESOLVED that the Mayoral Minute for the period from 05 April to 03 May 2012 be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

5 [MM] Mayoral Minute - Northern Rivers Science and Engineering Challenge

266

Cr B Longland

RESOLVED that Council supports the 2012 Northern Rivers Science and Engineering Challenge with a Bronze Sponsorship contribution of \$500.

The Motion was **Carried**

FOR VOTE - Unanimous

ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

6 [GM-CM] Destination Tweed Quarterly Performance Report - January to March 2012

267

**Cr J van Lieshout
Cr K Milne**

RESOLVED that Council

1. Endorses Destination Tweed's Quarterly Report for the quarter January to March 2012.
2. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-
 - (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

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

268

**Cr K Skinner
Cr P Youngblutt**

RESOLVED that Council notes the April 2012 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

8 [PR-CM] Development Application DA11/0607 for a Dwelling House at Lot 1 DP 1059093; No. 1 Gray Street, Tweed Heads West

This item was dealt with later in the meeting to allow discussion on legal matters to take place in Confidential Session - (Minute No 317 refers).

9 [PR-CM] Development Application DA10/0737 for Alterations to Existing Highway Service Centre Comprising Two (2) New Diesel Refueling Points, Expansion of Truck Refueling Canopy, New Truck Parking Area (36 New Bays) and the Replacement of Existing Truck

269

**Cr D Holdom
Cr K Skinner**

PROPOSED that:

1. Council not proceed with the Local Environmental Plan amendment and advise the applicant of Council's decision.
2. Development Application DA10/0737 for alterations to existing highway service centre comprising of two (2) new diesel refuelling points, expansion of truck refuelling canopy, new truck parking area (36 new bays) and the replacement of existing truck parking area with additional car parking spaces and dedicated bus drop-off area (application includes LEP Amendment) at Lot 1 DP 1127741 and Lot 2 DP 1010771; No. 1 Ozone Street, Chinderah be refused for the following reason:
 1. The proposed development is defined as a Service Station and is prohibited on the subject site.

270

AMENDMENT

**Cr P Youngblutt
Cr J van Lieshout**

RESOLVED that this item be deferred for four (4) weeks, at the request of the applicant.

The Amendment was **Carried** and became the Motion

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

271

AMENDMENT

**Cr K Milne
Cr D Holdom**

PROPOSED that this item be deferred for four (4) weeks, at the request of the applicant and that a Workshop to be scheduled.

The Amendment was **Lost**

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

The Motion was **Carried** - (Minute No 270 refers)

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

10 [PR-CM] Planning Proposal PP10/0003 for Lot 332 DP 1158142, Part Lot 326 and 315 DP 1158142 Silkpod Avenue, West Murwillumbah (known as Riva Vue)

272

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that the proposed rezoning of site, Lot 332 DP 1158142 and part Lots 315 and 326 DP 1158142, Silkpod Avenue, Murwillumbah, known as Riva Vue, proceed as exhibited and as outlined in the Planning Proposal PP10/0003 Version 3 - Final, in Attachment 1 to this report and that the Planning Proposal be referred to the Department of Planning and Infrastructure to be made through amendment to the Tweed LEP 2000.

The Motion was **Carried**

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

11 [PR-CM] Planning Reform Work Program

273

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council endorses the Planning Reforms - Work Program 2012/2015 identified as Tables 2-4 in this report.

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

12 [PR-CM] NSW Department of Planning and Infrastructure - Draft Policy Statement - Plan Making and Delegations - Call for Submissions

274

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that the issues highlighted in this report which form the basis of the submission forwarded to the Department of Planning and Infrastructure in response to the Draft policy statement – Plan-making and Delegations - be endorsed as Tweed Shire Council's response.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

13 [CNR-CM] Feasibility of Murwillumbah Landfill for Use as Motorcycle (Dirt) Track

275

**Cr K Skinner
Cr W Polglase**

PROPOSED that Council:

1. Supports the establishment of a motorcycle (dirt) track at the Murwillumbah landfill but notes the constraints associated with this site.

2. Advises the Tweed Valley Junior Development Motorcycle Club of its support for the establishment of a motorcycle (dirt) track at the Murwillumbah landfill.
3. Advises the Tweed Valley Junior Development Motorcycle Club of the requirement for it to prepare and lodge a Development Application.
4. Endorses Council Officers to commence negotiations with Tweed Valley Junior Development Motorcycle Club to prepare a long term agreement setting out the land use and financial arrangements.

276

AMENDMENT

**Cr J van Lieshout
Cr K Milne**

RESOLVED that Council:

1. As landowner, supports in principle, the establishment of a motorcycle (dirt) track at the Murwillumbah landfill but notes the constraints associated with this site.
2. Advises the Tweed Valley Junior Development Motorcycle Club of its support for the establishment of a motorcycle (dirt) track at the Murwillumbah landfill.
3. Advises the Tweed Valley Junior Development Motorcycle Club of the requirement for it to prepare and lodge a Development Application with supporting appropriate studies.
4. Endorses Council Officers to commence negotiations with Tweed Valley Junior Development Motorcycle Club to prepare a long term agreement setting out the land use and financial arrangements.

The Amendment was **Carried** and became the Motion.

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

277

AMENDMENT

**Cr D Holdom
Cr K Milne**

PROPOSED that:

1. Council as landowner, supports in principle, the establishment of a motorcycle (dirt) track at the Murwillumbah landfill but notes the constraints associated with this site.

2. Council advises the Tweed Valley Junior Development Motorcycle Club of its support for the establishment of a motorcycle (dirt) track at the Murwillumbah landfill.
3. Council advises the Tweed Valley Junior Development Motorcycle Club of the requirement for it to prepare and lodge a Development Application with supporting appropriate studies.
4. Council endorses Council Officers to commence negotiations with Tweed Valley Junior Development Motorcycle Club to prepare a long term agreement setting out the land use and financial arrangements.
5. The Tweed Valley Junior Development Motorcycle Club is to conduct community consultation prior to the lodgement of the Development Application, should it proceed, and that includes liaising with the adjoining neighbours and detailing the proposal to the adjoining neighbours.

The Amendment was **Lost**

FOR VOTE - Cr D Holdom, Cr K Milne

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

The Motion was Carried - (Minute No 276 refers)

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

AGAINST VOTE - Cr D Holdom, Cr K Milne

TEMPORARY ABSENCE FROM MEETING

Cr W Youngblutt left the meeting at 12:15 PM

278

Cr D Holdom

Cr B Longland

RESOLVED that Standing Orders be suspended to deal with Item 18 of the Agenda.

FOR VOTE - Voting - Unanimous

ABSENT. DID NOT VOTE - Cr P Youngblutt

RETURN TO MEETING

Cr Youngblutt returned to the meeting at 12:20 PM

18 [CNR-CM] Endangered Population Nomination for Tweed/Brunswick Coast population of the Koala (*Phascolarctos cinereus*)

279

**Cr D Holdom
Cr K Milne**

RESOLVED that the Endangered population nomination for the *Tweed-Brunswick Coast population of the Koala* be forwarded to the Scientific Committee for determination.

The Motion was **Carried**

FOR VOTE - Unanimous

280

**Cr B Longland
Cr D Holdom**

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

281

**Cr K Milne
Cr K Skinner**

PROPOSED that Standing Orders be suspended to deal with Item 49 of the Agenda.

The Motion was **Lost**

FOR VOTE - Cr D Holdom, Cr K Skinner, Cr K Milne

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

14 [CNR-CM] River Health Grants

282

**Cr J van Lieshout
Cr P Youngblutt**

RESOLVED that Council approves the proposed River Health Grants to assist private landholders to undertake the projects listed in the table contained within the report.

TEMPORARY ABSENCE FROM MEETING

Cr W Polglase left the meeting at 12:20 PM

RETURN FROM TEMPORARY ABSENCE

Cr W Polglase has returned from temporary absence at 12:22 PM
The Motion was **Carried**

FOR VOTE - Voting - Unanimous

15 [CNR-CM] Biodiversity Grant Program Implementation

283

**Cr K Skinner
Cr J van Lieshout**

RESOLVED that Council approves the proposed Biodiversity Grants to assist private landowners to undertake the projects listed in the table contained within the report.

The Motion was **Carried**

FOR VOTE - Unanimous

16 [CNR-CM] Northern Rivers Catchment Management Authority - Integrated Sustainable Floodplain Farming Tweed - Year 1

284

**Cr K Skinner
Cr J van Lieshout**

RESOLVED that Council approves the proposed on-ground works to remediate Acid Sulfate Soils impacts and improve soil health and soil conservation on floodplain farms listed within the report.

The Motion was **Carried**

FOR VOTE - Unanimous

17 [CNR-CM] NSW Environmental Trust Grant 2011/SL/0073 – Cross-tenure Invasive Animal Control to Protect Native Fauna

285

**Cr K Skinner
Cr J van Lieshout**

RESOLVED that Council:

1. Accepts the grant offer of \$100,000 from the NSW Environmental Trust 2011/2012 Restoration and Rehabilitation Program (State and Local Government) for the 'Cross-tenure Invasive Animal Control to Protect Native Fauna' and votes the expenditure.
2. Allocates \$40,000 from the Biodiversity Program as matching funding.

The Motion was **Carried**

FOR VOTE - Unanimous

18 [CNR-CM] Endangered Population Nomination for Tweed/Brunswick Coast population of the Koala (*Phascolarctos cinereus*)

This item was dealt with earlier in the meeting (Minute No 279 refers).

19 [CNR-CM] Oral Histories - Migrant and Indigenous communities of the Tweed

286

**Cr K Skinner
Cr J van Lieshout**

RESOLVED that Council accepts the grant offer of \$7,000 from the Migration Heritage Centre New South Wales to be used for oral history interviews with leading members of the Tweed South Sea Islander, Indian, and Indigenous communities.

The Motion was **Carried**

FOR VOTE - Unanimous

20 [CNR-CM] EC2011-209 Clarrie Hall Dam Spillway Upgrade - Shortlisted Construction Contractors from Expressions of Interest process

287

**Cr K Skinner
Cr J van Lieshout**

RESOLVED that in relation to EC2011-209 Clarrie Hall Dam Spillway Upgrade Construction - Expression of Interest for Construction Contractors:

1. Council accepts the Expressions of Interest submissions of Entracon Pty Ltd, Geotechnical Engineering Pty Ltd, Abergeldie Pty Ltd and Haslin Pty Ltd and invites those applicants to participate in the Early Tenderer Involvement (ETI) process and subsequently submit a tender.
2. Council accepts the Expressions of Interest tenders of the next two applicants Ledonne Pty Ltd and Doval Pty Ltd and invites them to be reserves, to participate in subsequent tender stages where required and only if one or more short-listed tenderers withdraw from the process.
3. Council informs unsuccessful applicants of these outcomes.
4. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret.

The Motion was **Carried**

FOR VOTE - Unanimous

21 [CNR-CM] Lease to Community Print Makers - Bray Park Community Centre, Kyogle Road, Bray Park

288

**Cr K Skinner
Cr K Milne**

RESOLVED that :

1. Council approves the termination of lease AA972231D to Tweed Training and Enterprise Company Limited (now known as Nortec) over Lot 1 DP 395275 and Lot 1 DP 381677 at Kyogle Road, Bray Park.
2. Council approves granting a lease to Murwillumbah Community Print Makers over Lot 1 DP 395275 and Lot 1 DP 381677 at Kyogle Road, Bray Park for a term of five years and an option of a further five years for a peppercorn rental of \$1 per annum.
3. All necessary documentation be executed under the Common Seal of Council.

The Motion was **Carried**

FOR VOTE - Unanimous

22 [CNR-CM] Administrative Change for Ageing Disability and Home Care Grant Funding

289

**Cr D Holdom
Cr J van Lieshout**

RESOLVED that Council notes the proposed contractual changes to the Home and Community Care Program as set out in this report.

The Motion was **Carried**

FOR VOTE - Unanimous

23 [CNR-CM] EC2010-069 Burringbar and Mooball Wastewater Treatment Plant - Variation Report

290

**Cr D Holdom
Cr K Skinner**

RESOLVED that

1. The variations of \$131,405 (exclusive of GST) for Contract EC2010-069 Burringbar and Mooball Wastewater Treatment Plant to A J Lucas Operation Pty Limited be received and noted.
2. The General Manager be given delegated authority to approve additional variations up to \$150,000 above the revised contract sum and those variations reported to Council following completion of the works.

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

TEMPORARY ABSENCE FROM MEETING

Cr D Holdom left the meeting at 12:29 PM

RETURN TO MEETING

Cr D Holdom has returned from temporary absence at 12:31 PM

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

24 [EO-CM] Kingscliff Foreshore Masterplan

291

**Cr D Holdom
Cr K Skinner**

RESOLVED that:

1. Council endorses the concept layout plan of the configuration of Marine Parade, Kingscliff and places it on public exhibition for a period of twenty-eighty (28 days).
2. On completion of public exhibition a further report is to be presented to Council regarding any changes to the proposal arising from submissions.

The Motion was **Carried**

FOR VOTE - Unanimous

ADJOURNMENT OF MEETING

Adjournment for lunch at 12.44pm.

RESUMPTION OF MEETING

The Meeting resumed at 1.37pm.

25 [EO-CM] New Generic Plan of Management for Community Land Categorised as a Sportsground and Crown Land Used as a Sportsground

292

**Cr K Skinner
Cr P Youngblutt**

RESOLVED that pursuant to the provisions of Section 36 of the Local Government Act 1993, the draft 'Generic Plan of Management for Community Land Categorised as a Sportsground, and Crown Land Used as a Sportsground (2012)' be adopted.

The Motion was **Carried**

FOR VOTE - Unanimous

26 [EO-CM] Naming of Park - Cudgera Creek Park

293

**Cr P Youngblutt
Cr K Skinner**

RESOLVED that Council names the park on the Cudgera Creek Foreshore at Hastings Point 'Cudgera Creek Park' and erects signage.

The Motion was **Carried**

FOR VOTE - Unanimous

27 [EO-CM] Amendment to Section 94 Plan No. 10 - Cobaki Lakes

Cr Milne made a Statement with regard to this item at the commencement of the meeting - refer Disclosure of Interest.

294

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that

1. Council adopts Draft S94 Plan No 10 – Cobaki Lakes Version 4 as a basis for exhibition and community discussion/consultation.
2. Draft S94 Plan No 10 – Cobaki Lakes Version 4 is exhibited as required by the Environmental Planning and Assessment Regulations.

The Motion was **Carried**

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

28 [EO-CM] EC2011-117 Hastings Point Park Upgrade

295

Cr D Holdom
Cr P Youngblutt

RESOLVED that:

1. The tender from Greenwood Landscape Management for EC2011-117 Hastings Point Park Upgrade be accepted to the value of \$224,820.91 exclusive of GST.
2. The General Manager be given delegated authority to approve variations up to \$150,000 above the initial tender price and those variations reported to Council following completion of works.
3. The attachments 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:-
 - (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

29 [EO-CM] Classification of Tweed Urban Arterial Roads

296

Cr J van Lieshout
Cr D Holdom

RESOLVED that Council:

1. Representatives meet with the Minister for Roads and Ports to further advocate the reclassification of Tweed urban arterial roads to "State Road and Regional Road" status.
 2. Encourage support for the reclassification from interested industry representatives.
 3. A letter be sent to the NSW Road and Maritime Services (RMS) acknowledging receipt of their position as detailed in the letter of 4 April 2012; and
-

- (a) Advise that Council will continue to seek reclassification of urban arterial roads in Tweed Shire through representations to the Minister for Roads and Ports.
- (b) Confirm that Council will not accept handover as a "local road" of the soon to be replaced section of the Pacific Highway to be known as "Sexton Hill Drive".

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

30 [TCS-CM] Corporate Quarterly Report - 1 January to 31 March 2012

297

Cr K Skinner

Cr K Milne

RESOLVED that the Corporate Quarterly Report for the period 1 January to 31 March 2012 be received and noted

The Motion was **Carried**

FOR VOTE - Unanimous

31 [TCS-CM] Quarterly Budget Review - March 2012

298

Cr D Holdom

Cr P Youngblutt

RESOLVED that:

1. The Quarterly Budget Review Statement as at 31 March 2012 be adopted.
2. The expenditure and income, as summarised below and detailed within the report, be voted and adjusted in accordance with the revised total expenditure and income for the year ending 30 June 2012.

Description	Change to Vote	
	Deficit	Surplus
General Fund		
<u>Expenses</u>		
Employee costs	0	682,809
Materials & Contracts	95,464	0
Interest	0	0
Other Operating costs	0	0
Capital	0	1,466,331
Loan Repayments	0	0
Transfers to Reserves	0	96,469
	<u>95,464</u>	<u>2,245,609</u>
<u>Income</u>		
Rates and Annual Charges	0	0
Interest revenue	0	0
Operating Grants & Conts	0	42,800
Capital Grants & Conts	0	0
User Charges & Fees	661,186	0
Other Operating Revenue	0	0
Loan Funds	1,600,000	0
Recoupments	0	45,428
Transfers from Reserves	0	22,813
Asset Sales	0	0
	<u>2,261,186</u>	<u>111,041</u>
Net Surplus/(Deficit)		<u>0</u>
	Deficit	Surplus
Sewer Fund		
<u>Expenses</u>		
Employee costs	0	0
Materials & Contracts	20,000	0
Interest	0	0
Other Operating costs	0	0
Capital	0	1,692,100
Loan Repayments	0	0
Transfers to Reserves	0	1,119,734
	<u>20,000</u>	<u>2,811,834</u>
<u>Income</u>		
Rates and Annual Charges	0	0
Interest revenue	0	766,527
Operating Grants & Conts	0	0
Capital Grants & Conts	0	0
User Charges & Fees	0	0
Other Operating Revenue	0	0
Loan Funds	0	0
Recoupments	933,100	0
Transfers from Reserves	2,625,261	0
Asset Sales	0	0
	<u>3,558,361</u>	<u>766,527</u>
Net Surplus/(Deficit)		<u>0</u>
Water Fund		

Expenses

Employee costs	0	0
Materials & Contracts	0	0
Interest	0	0
Other Operating costs	0	0
Capital	0	0
Loan Repayments	0	0
Transfers to Reserves	0	65,534
	<hr/>	<hr/>
	0	65,534

Income

Rates and Annual Charges	0	0
Interest revenue	65,534	0
Operating Grants & Conts	0	0
Capital Grants & Conts	0	0
User Charges & Fees	0	0
Other Operating Revenue	0	0
Loan Funds	0	0
Recoupments	0	0
Transfers from Reserves	0	0
Asset Sales	0	0
	<hr/>	<hr/>
	65,534	0
Net Surplus/(Deficit)		<hr/>
		0

The Motion was **Carried**

FOR VOTE - Unanimous

32 [TCS-CM] In Kind and Real Donations - January to March 2012

299

Cr P Youngblutt

Cr K Skinner

RESOLVED that Council notes the total donations of \$58,719.25 for the period January to March 2012.

The Motion was **Carried**

FOR VOTE - Unanimous

33 [TCS-CM] Amendments to Election Funding, Expenditure and Disclosures Act 1981

300

**Cr P Youngblutt
Cr K Milne**

RESOLVED that the Amendments to *Election Funding, Expenditure and Disclosures Act 1981* report be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

34 [TCS-CM] Division of Local Government Review of Council's Integrated Planning and Reporting Framework

301

**Cr P Youngblutt
Cr K Milne**

RESOLVED that the review of Council's Integrated Planning and Reporting Framework documentation, by the Division of Local Government, be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

35 [TCS-CM] Monthly Investment and Section 94 Developer Contributions Report for the Period Ending 30 April 2012

302

**Cr P Youngblutt
Cr K Milne**

RESOLVED that in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at period ending 30 April 2012 totalling \$149,781,826.40 be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

36 [SUB-TRC] Minutes of the Tweed River Committee Meeting held Wednesday 11 April 2012

303

Cr P Youngblutt
Cr K Milne

RESOLVED that the:-

1. Minutes of the Tweed River Committee Meeting held Wednesday 11 April 2011 be received and noted; and
2. The Executive Management Team's recommendations be adopted as follows:

Resignation of Fingal Head Community Member

That:

1. Judy Robinson's resignation from the Tweed River Committee be accepted.
2. Hugh Mulligan be appointed as the representative for Fingal Head Community Association and Fingal Head CoastCare Association on the Tweed River Committee.

Tugun Bypass Update on ASS Issues

That Council writes to Department of Planning and Infrastructure as well as the Local Member, Mr Geoff Provest, strongly recommending that there be continued long term, independent, specialist monitoring, management and reporting with regard to acid sulfate soils and other environmental impacts of construction of the Tugun Bypass, and that this be funded by the Queensland Department of Transport and Main Roads.

The Motion was **Carried**

FOR VOTE - Unanimous

37 [SUB-AAC] Minutes of the Aboriginal Advisory Committee Meeting held Friday 13 April 2012

304

Cr P Youngblutt
Cr K Milne

RESOLVED that the:-

1. Minutes of the Aboriginal Advisory Committee Meeting held Friday 13 April be received and noted; and

2. The Executive Management Team's recommendation be adopted as follows:

Reconciliation Action Plan (RAP) and Memorandum of Understanding (MOU)

That upon cessation of the current Aboriginal Advisory Committee and following the Council Election in September 2012 that:

1. Mandatory Code of Meeting Practice training be provided for all Aboriginal Advisory Committee members;
2. Cultural Awareness training be conducted for all newly elected and returning councillors; and
3. These requirement be included in the draft Memorandum of Understanding between Council and the Aboriginal community.

The Motion was **Carried**

FOR VOTE - Unanimous

38 [SUBCOM] Minutes of the Tweed Coast Koala Advisory Group Committee Meeting held Tuesday 17 April 2012

305

**Cr P Youngblutt
Cr K Milne**

RESOLVED that the:-

1. Minutes of the Tweed Coast Koala Advisory Group Meeting held Tuesday 17 April 2012 be received and noted; and
2. The Executive Management Team's recommendation be adopted as follows:

Endangered Population Nomination

That Council endorses the Endangered Population nomination for the Tweed-Brunswick Coast population of the Koala (*Phascolarctos cinereus*) and forwards it to the NSW Scientific Committee for their consideration.

The Motion was **Carried**

FOR VOTE - Unanimous

39 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 19 April 2012

306

**Cr P Youngblutt
Cr K Milne**

RESOLVED that the:-

1. Minutes of the Local Traffic Committee Meeting held Thursday 19 April 2012 be received and noted; and
2. The Executive Management Team's recommendations be adopted as follows:

A1 [LTC] Minjungbal Drive Intersection with Heffron and Water Streets, Tweed Heads South

That directional arrows and appropriate lane signage be installed on Heffron Street for east bound traffic be installed as follows:

1. Left lane - left and straight ahead.
2. Right lane - right turn only.

A2 [LTC] Leisure Drive, Banora Point

That:

1. *No further action be taken in relation to Leisure Drive and Advocate Place until community consultation has taken place.*
2. *This item be placed on the list of Outstanding Resolutions.*

The Motion was **Carried**

FOR VOTE - Unanimous

40 [SUB-LTC-BDR] Minutes of the Local Traffic Committee - B-Double Route Meeting held 19 April 2012

307

**Cr P Youngblutt
Cr K Milne**

RESOLVED that the:-

1. Minutes of the Local Traffic Committee - B-Double Route Meeting held Thursday 19 April 2012 be received and noted; and

2. The Executive Management Team's recommendation be adopted as follows

1. Chinderah Bay Drive and Waugh Streets, Chinderah

That the time limitations on the B-Double route approval for Chinderah Bay Drive and Waugh Street be removed.

The Motion was **Carried**

FOR VOTE - Unanimous

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

308

**Cr P Youngblutt
Cr K Milne**

RESOLVED that the Reports from Subcommittees and/or Working Groups be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

ORDERS OF THE DAY

42 [NOM-Cr K Milne] Farmer's Market Tweed/Murwillumbah

NOTICE OF MOTION:

309

**Cr K Milne
Cr K Skinner**

PROPOSED that Council requests that Destination Tweed forwards a report to Council on the possibility of establishing a Farmer's market in Tweed Heads.

The Motion was **Lost**

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

43 [NOM-Cr K Milne] Viability of the Tweed Road Network

NOTICE OF MOTION:

The Motion lapsed as there was no seconder.

44 [NOM-Cr K Milne] Jack Evans Boat Harbour Markets

NOTICE OF MOTION:

The Motion lapsed as there was no seconder.

45 [NOM-Cr K Milne] Coal Seam Gas Information and Policy

NOTICE OF MOTION:

The Motion lapsed as there was no seconder.

46 [NOM-Cr K Milne] Optimum Outcomes for Extending Bikeways

NOTICE OF MOTION:

310

**Cr K Milne
Cr B Longland**

PROPOSED that Council brings forward a report to outline the best outcomes for extending the Tweed Shire bicycle network in relation to either commuter or tourist options, including investigation of where the greatest numbers of residents or tourists could be serviced; the report to consider undertaking community consultation on this matter.

The Motion was **Lost**

FOR VOTE - Cr K Skinner, Cr K Milne

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

47 [NOM-Cr B Longland] Cycleways

NOTICE OF MOTION:

This Notice of Motion was withdrawn.

48 [NOM-Cr D Holdom] Commercial Area Review Outdoor Dining

NOTICE OF MOTION:

311

**Cr D Holdom
Cr B Longland**

PROPOSED that the General Manager investigates and reports back to Council on the following:

1. Council obtains current relevant valuations for commercial areas in all Commercial Business Districts (CBDs) providing outdoor dining and a report to Council on any need to review outdoor dining fees based on the new valuations; and
2. The report to also consider and report back on a perpetual review period of five (5) years for outdoor dining so that valuations remain generally current.

DECLARATION OF INTEREST

Cr K Milne declared a non-pecuniary Interest in this item, left the Chamber at 02:36 PM and took no part in the discussion or voting. The nature of the interest is that Cr Milne has relatives in the café industry.

312

AMENDMENT

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that Council holds a Workshop prior to the June Council Meeting to readdress the issues of Fees and Charges for Outdoor Dining.

The Amendment was **Carried**

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

The Amendment on becoming the Motion was **Carried** - (Minute No 312 refers)

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

49 [NOM-Cr D Holdom] Byrrell Creek Dam Site - Moratorium

RETURN TO MEETING

Cr K Milne has returned from temporary absence at 02:49 PM

DECLARATION

Cr J van Lieshout made a Statement with regard to this item at the commencement of the meeting - refer Disclosure of Interest. Cr van Lieshout left the Chamber and did not participate in the discussion or voting on this item.

NOTICE OF MOTION:

313

**Cr D Holdom
Cr B Longland**

PROPOSED that Council:

1. Places a moratorium on any dam proposal at Byrrell Creek for a period of the next twenty (20) years, effective from 15 May 2012.
2. Adopts the raising of Clarrie Hall Dam as the preferred option for augmenting the Tweed District Water Supply, and
3. Proceeds with the Planning Approvals process and Detailed Design in relation to the raising of Clarrie Hall Dam, and
4. Proceeds with planning approval investigations for Preliminary Geological / Geotech Studies, Seismic Studies and Hydrology Studies; a Legal and Planning Advice Study; a Land Acquisitions Plan; and liaising with Government Agencies regarding Planning Approval Requirements (EIS requirements, Adaptive Management requirements, Water Sharing Plan, Fisheries requirements) with respect to the raising of the Clarrie Hall Dam.

314

AMENDMENT

**Cr K Milne
Cr D Holdom**

RESOLVED that Council places a moratorium on any dam proposal at Byrrell Creek for a period of the next twenty (20) years, effective from 15 May 2012.

The Amendment was **Carried** on the casting vote of the Mayor

***Voting For - Cr B Longland, Cr K Milne, Cr D Holdom.
Voting Against - Cr P Youngblutt, Cr K Skinner, Cr W Polglase
ABSENT - DID NOT VOTE - Cr J van Lieshout***

The Amendment on becoming the Motion was **Carried** on the casting vote of the Mayor - (Minute No 314 refers)

***Voting For - Cr B Longland, Cr K Milne, Cr D Holdom.
Voting Against - Cr P Youngblutt, Cr K Skinner, Cr W Polglase
ABSENT - DID NOT VOTE - Cr J van Lieshout***

RETURN TO MEETING

Cr J van Lieshout has returned from temporary absence at 03:14 PM

TEMPORARY ABSENCE FROM MEETING

Cr W Polglase left the meeting at 03:14 PM

QUESTIONS ON NOTICE

**50 [QoN-Cr D Holdom] Koala Listing as Vulnerable by the Federal Government
30 April 2012**

QUESTION ON NOTICE:

Councillor D Holdom asked:

Given the Community interest within the Tweed Shire and beyond regarding Koalas and the recent announcement by the Federal Minister, Mr Tony Burke (30 April 2012), to list the Koala as Vulnerable in NSW and Qld, can the Director of Community and Natural Resources provide advice on the following:

1. what the listing means to Tweed shire Council and our Koalas?; and
2. how will this affect any legislation in NSW?

Response:

The Director Community and Natural Resources responded that:

1. What the listing means to Tweed Shire Council and our Koalas?

The Koala is already listed as Vulnerable in NSW where approval is needed if a “significant” impact is likely.

The Federal listing of the Koala means that developers also need to seek Federal environmental approval for any significant impacts although the test of “significance” is slightly different. In most cases, the level of information necessary to establish whether or not a significant impact is likely under NSW legislation would be sufficient for the federal referral. Also, the Federal approval may have conditions attached in the same way as Council may impose conditions on a developer to ensure “significant” impacts are avoided, mitigated, or offset.

Apart from raising awareness of the plight of the Koala in areas such as the Tweed, one of the main advantages of the Federal listing is that it makes it much easier to obtain Federal grant funding to help the species recover.

2. How will this affect any legislation in NSW?

The Federal listing will not affect the NSW legislation. Both statutes operate in parallel.

51 [QoN-Cr K Milne] Kings Forest Referral to the Federal Government on Koalas

QUESTION ON NOTICE:

Councillor K Milne asked:

Now that the Federal Government has classified Koalas in NSW as a Vulnerable Species will Council be making a submission to the current Kings Forest EPBC referral process on the impact to Koalas from this development, noting advice from the department that they will now take the Koala issues for Kings Forest into consideration and that there is provision in the process for further information to be provided as the developer has not yet provided all the required information?

Response:

The Director Community and Natural Resources responded that the Environment Assessment Branch of the Department of Sustainability, Environment, Water, Population and Communities has been in contact with Council in relation to an Environment Protection and Biodiversity Conservation Act 1999 referral regarding the Wallum Sedge Frog submitted by LEDA. Council has provided the Department with a copy of Council's submission on the Kings Forest Stage 1 Project Application. Council officers have examined the Wallum Sedge Frog referral which reiterates information provided in the recent Kings Forest Stage 1 Project Application. In response, Council will make a brief submission to the Department repeating the issues expressed in the Council report of 24 January 2012 but also noting that LEDA, in their response to public submissions on the Project Application, is reconsidering its approach to management of this species. In addition, Council officers will inform the Department of the number of other Federally-listed species previously known from the Kings Forest site. This includes the Koala which has only been listed in the last few weeks. LEDA has also advised Council that it has been in communication with the Department in regard to the koalas.

TEMPORARY ABSENCE FROM MEETING

The Mayor, Cr B Longland, left the meeting at 03:17 PM. The Deputy Mayor, Cr P Youngblutt, chaired the meeting.

52 [QoN-Cr K Milne] Cobaki Referral to the Federal Government on Koalas

QUESTION ON NOTICE:

Councillor K Milne asked:

What stage are the Cobaki subdivision at in relation to the construction certificates and is it possible for Council to request the Federal Government that Cobaki Koalas are also considered under the Federal Government EPBC Act now that Koalas are listed as vulnerable?

Response:

The Director Community and Natural Resources responded that Construction Certificates for Precincts 1, 2 and 6 of Cobaki Lakes are currently being assessed. Further information has been sought, including amendments to management plans.

The recent listing of the Koala under the EPBC Act does not trigger the requirement for further referral for the Cobaki Lakes site because a Controlled Action approval has already been given. A new referral would only be required if the proposed action differed from that described in the referral received by the Department. This seems unlikely because the description was broad based with regard to the residential community and associated facilities.

RETURN TO MEETING

Cr W Polglase has returned from temporary absence at 03:18 PM

53 [QoN-Cr K Milne] Tweed Road Contributions

QUESTION ON NOTICE:

Councillor K Milne asked:

What is the unfunded cost of roadworks required to facilitate the major developments in Tweed ie that are not funded by developers contributions, and what is the total amount the community could be expected to be burdened with for these works?

Response

The Director Engineering and Operations responded that this information was provided in Item 31 of a report to Council 15 November 2011 concerning Amendment to Section 94 Plan No. 4 - Tweed Road Contribution Plan. In the "Legal/Resource/Financial Implications" section of that report Council was advised:

"The financial modelling on which the revised rates are based predicts that over the next 25 years of the plan to 2031, the plan will collect \$284.5 million, compared to the works program total of \$588 million. This equates to 48% of the total required to fund all of the proposed road infrastructure projects. As such, under the current TRCP philosophy, Council will need to source significant funding from other sources, such as government grants and loans to fully finance the works."

The amount not funded from developer contributions is \$303.5M.

RETURN TO MEETING

The Mayor, Cr B Longland, has returned from temporary absence at 03:20 PM and resumed the Chair.

54 [QoN-Cr K Milne] Total Cost of Dam Options

QUESTION ON NOTICE:

Councillor K Milne asked:

Can Council provide an estimate of what the final end cost of the three (3) different dam options would be including interest payments ie not net present values?

Response:

The Director Community and Natural Resources responded that the preparation of a response to this question would require allocation of staff resources. This request would be more appropriate to be considered by Council as a Notice of Motion.

55 [QoN-Cr D Holdom] Rollout of National Broadband Network (NBN) - Concerns Raised by Arts Northern Rivers (ANR) regarding the Creative Industries

QUESTION ON NOTICE:

Councillor D Holdom asked:

Given the concern raised in the letter (as an attachment) from Arts Northern Rivers (ANR) regarding the National Broadband Network (NBN) rollout can the General Manager or his delegate please advise Council as to the expected or announced timing of the NBN to the Northern Rivers Region and specifically when Tweed residents can expect to enjoy the benefits of the NBN?

Response

On the 29 March 2012 NBN Co announced their national three year roll out program for fibre. This three year program will commence in mid 2012 and run until mid 2015 and forms part of their larger ten year program.

Within the Northern Rivers Region, Grafton (Clarence Valley Council) was the only area included within the three year roll out program. Unfortunately, no locality within the Tweed Shire will be fibre connected by NBN Co, within those three years. This does not include any 'Greenfield' developments of more than 100 lot size where the developer has entered into a contract with NBN Co to have their estate fibre connected, with the provision of telecommunications pit and pipe at the developer's expense.

NBN Co have not yet announced their roll out program for the fixed wireless broadband which is planned to cover most of the geographical area of Tweed. The fixed wireless program is scheduled nationally to commence in July 2012 and be completed by June 2015. The remainder of the households and businesses located outside of the fixed wireless footprint and fibre optic foot print will be connected via satellite broadband. NBN Co have commissioned two dedicated satellites which are scheduled to be launched by July 2015. An interim NBN satellite service is available now for customers residing in satellite coverage areas via an application process with NBN Co.

Council continues to actively promote improved communications and broadband services within the region and has updated its website with information detailing the Northern Rivers release sites and fibre/ fixed wireless and satellite coverage maps of the Tweed. Council also continues to be an active sponsor of the Broadband Today Alliance.

Given that the NBN Co fibre roll out is not scheduled to benefit businesses and households within the Tweed for at least the next three years Council will now direct its attention to enhancing broadband options for citizens with existing technologies by encouraging internet service providers where possible to introduce infrastructure (DSLAMS and Telstra Top Hats) within the existing Telstra exchanges so as to increase competition with respect to access, coverage, speed, data allowance and pricing for Tweed residents and businesses.

Council will also continue to liaise with the three major mobile telecommunication companies to improve coverage and capacity, including the introduction of new 4G network as well as address known blackspots given the increased mobility within the workforce and community.

56 [QoN-Cr D Holdom] Link to Coal Seam Gas Interim Committee Federal Government

QUESTION ON NOTICE:

Councillor D Holdom asked:

Could the link to the recently established Interim Committee on Coal Seam Gas and the link to FAQs on Coal Seam Gas be provided on Council's website to assist in the provision of information and provide access to other levels of government for residents and ratepayers of this shire?

Response

The Director Community and Natural Resources responded that this question would be more appropriate as a Notice of Motion, to allow consideration in the public interest of this request.

CONFIDENTIAL COMMITTEE

315

**Cr P Youngblutt
Cr D Holdom**

RESOLVED that Council resolves itself into a Confidential Committee in accordance with Section 10A(2) of the Local Government Act 1993 (as amended) 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

316

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that the Committee resumes in Open Council.

The Motion was **Carried**

FOR VOTE - Unanimous

8 [PR-CM] Development Application DA11/0607 for a Dwelling House at Lot 1 DP 1059093; No. 1 Gray Street, Tweed Heads West

RETURN TO MEETING

Cr D Holdom has returned from temporary absence at 03:55 PM

317

**Cr P Youngblutt
Cr W Polglase**

RESOLVED that:

- A. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- B. Council assumes the concurrence of the Director-General of the Department of Planning and Infrastructure for the approval of the State Environmental Planning Policy No. 1 (SEPP1) objection to vary the prohibition for the construction of a dwelling house within the 25 or higher ANEF which does not meet the construction requirements of Australian Standard AS 2021-1994 (Acoustics-Aircraft noise intrusion-building siting and construction).
- C. Development Application DA11/0607 for a dwelling house at Lot 1 DP 1059093 Gray Street, Tweed Heads West be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.
[GEN0015]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0115]
3. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property.
[GEN0135]
4. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on the road reserve or footpath. Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[GEN0245]

5. 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]

6. The dwelling house is to be constructed to Bushfire Attack Level (BAL) 12.5 in accordance with Australian Standard AS 3959-2009.

[GENNS01]

7. The development shall be carried out in accordance with the provisions of the Aircraft Noise Report for Lot 1 DP 1059093 No 1 Gray Street Tweed Heads prepared by Craig Hill Acoustics Reference No: igreyst111011/1 and dated Tuesday 11 October 2011.

[GENNS02]

8. If window systems to be used are not openable or are required to remain closed in order to satisfy the requirements of the Aircraft Noise Report for Lot 1 DP 1059093 No 1 Gray Street Tweed Heads prepared by Craig Hill Acoustics Reference No: igreyst111011/1 and dated Tuesday 11 October 2011, then a system of mechanical ventilation complying with the relevant provisions of the Building Code of Australia shall be installed to service all habitable areas of the dwelling.

[GENNS03]

9. The ceiling of the proposed dwelling is to be constructed with 2x13mm Soundchek™ in accordance with the manufacturer's specifications.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. Prior to the issue of a Construction Certificate details for the footings and floor slab designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0945]

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

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

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

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

[PCC1145]

12. Prior to the issue of a Construction Certificate bracing and tie-down details designed by a structural engineer are to be submitted to and approved by the Principal Certifying Authority.

[PCCNS01]

13. Prior to the issue of a Construction Certificate roof stormwater drainage details are to be submitted to and approved by the Principal Certifying Authority.

[PCCNS03]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0005]

15. The erection of a building in accordance with a development consent must not be commenced until:

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

[PCW0215]

16. 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]

17. Residential building work:

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

[PCW0235]

18. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:

- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

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

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

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

[PCW0255]

20. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

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

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

[PCW0985]

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

[PCW1065]

22. Prior to the commencement of works, the applicant is to indicate their compliance with the provisions of the Aircraft Noise Report for Lot 1 DP 1059093 No 1 Gray Street Tweed Heads prepared by Craig Hill Acoustics Reference No: igreyst111011/1 and dated Tuesday 11 October 2011 by providing to the Principal Certifying Authority appropriate details on the building components and systems intended to be used in the construction of the dwelling house with the corresponding RW ratings. Such details shall also reference the window and door systems to be installed with the corresponding RW ratings.

[PCWNS01]

23. Prior to the commencement of sewer drainage works an Application to Alter Councils Water or Sewer Infrastructure is to be submitted to Council.

For further information please contact Mr Peter Pennycuik Strategic & Asset Engineer on (02) 6670 2638

[PCWNS03]

DURING CONSTRUCTION

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

[DUR0005]

25. 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]

26. 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]

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

[DUR0245]

28. 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]

29. 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]

30. 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]

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

[DUR0415]

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

[DUR0445]

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

Please note timber retaining walls are not permitted.

[DUR0835]

34. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.
- [DUR0905]
35. 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]
36. A certificate is to be submitted by a Registered Surveyor certifying that all habitable floor areas are constructed above 3.1 metres AHD. Certification of those levels by a registered surveyor must be submitted to the Principal Certifying Authority prior to proceedings past floor level to ensure that the floor is above flood level.
- [DUR1365]
37. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.
- [DUR1945]
38. 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]
39. Plumbing
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
 - (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
- [DUR2495]
40. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
- [DUR2515]
41. 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]

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

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

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

[DUR2555]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

43. 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]

44. Prior to the issue of an occupation certificate,

- (a) Certification of termite protection methods performed by the person carrying out the works is to be submitted to the PCA; and
- (b) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
 - (i) the method of protection; and
 - (ii) the date of installation of the system; and
 - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
 - (iv) the need to maintain and inspect the system on a regular basis.

[POC0235]

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

[POC0435]

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

[POC1045]

USE

47. 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]

48. 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]

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

[USE0505]

D. A notation be placed on any Section 149(5) for the lot advising that an Aircraft Noise report has been prepared by Craig Hill Acoustics Reference No. igreyst111011/1 dated Tuesday 1 October 2011 recommending insulation requirements for the construction of the dwelling house on the lot.

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AMENDMENT

**Cr D Holdom
Cr K Milne**

PROPOSED that this item be deferred to the June meeting with a Workshop to be scheduled prior to the meeting.

The Amendment was **Lost**

FOR VOTE - Cr K Milne

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

The Motion was **Carried** - (Minute No 317 refers)

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

AGAINST VOTE - Cr D Holdom, Cr K Milne

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 FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

1 [PR-CM] New Kingscliff Police Station Development Application (DA11/0257) Third Party LEC Appeal

REASON FOR CONFIDENTIALITY:

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

DECLARATION OF INTEREST

Cr K Skinner wishes to declare a significant, non pecuniary Interest in Item 1 of the Confidential Agenda. The nature of the interest is that Cr Skinner is part of the Kingscliff Business and Residents Focus Group which is involved in legal action relating to the subject report.

C 24

That:

1. Council instructs its solicitors to advise the NSW Land Environment Court and other parties that Council will be entering a submitting appearance for Land and Environment Court Proceedings No.40102 of 2012.
2. Council requests its solicitors to undertake a passive "watching brief" to aid Council in obtaining proper advice and acting in the event of any unexpected developments in Land and Environment Court Proceedings No.40102 of 2012.

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

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

2 [EO-CM Tweed Roads Contribution Plan - Application of Section 94CA of the Environmental Planning and Assessment Act 1979

REASON FOR CONFIDENTIALITY:

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: -

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

DECLARATION

Cr Milne made a Statement with regard to this item at the commencement of the meeting - refer Disclosure of Interest.

RETURN TO MEETING

Cr K Skinner has returned from temporary absence at 03:46 PM

TEMPORARY ABSENCE FROM MEETING

Cr P Youngblutt left the meeting at 03:47 PM

C 25

That:

1. Council respond to Gadens Lawyers in the terms recommended in the conclusion of the report.
2. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

***FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr P Youngblutt***

3 [EO-CM] Response to Notice of Motion - Council Land Review for Future Sale

DECLARATION OF INTEREST

Cr D Holdom wishes to declare a pecuniary Interest in Item 3 of the Confidential Agenda which is due to a personal nature. Cr Holdom will manage the interest by leaving the chamber and not taking part in voting or discussion.

REASON FOR CONFIDENTIALITY:

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: -

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

RETURN TO MEETING

Cr P Youngblutt has returned from temporary absence at 03:47 PM

C 319

That Council adopts Option 1 as set out in the body of the report.

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

AGAINST VOTE - Cr K Milne

ABSENT. DID NOT VOTE - Cr D Holdom

8 [PR-CM] Development Application DA11/0607 for a Dwelling House at Lot 1 DP 1059093; No. 1 Gray Street, Tweed Heads West

The discussion relating to legal matters took place in Confidential session, however, the decision and voting took place in open Council (Minute Number 317 of the Minutes of the Ordinary Council Meeting refers).

320

**Cr W Polglase
Cr P Youngblutt**

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 4.26 PM.



Minutes of Meeting Confirmed by Council

at the

Council Meeting held on xxx

Chairman