



TWEED
SHIRE COUNCIL

Mayor: Cr K Skinner (Mayor)

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

Minutes

Planning and Regulation Reports

Ordinary Council Meeting

Tuesday 19 April 2011

held at Murwillumbah Cultural and Civic Centre
commencing at 3.30pm

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 3.30pm.

IN ATTENDANCE

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

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

ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

208

**Cr B Longland
Cr J van Lieshout**

RESOLVED that Council notes the March 2011 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

8 [PR-CM] Planning Reforms Work Program - 2011/2014

209

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that Council endorses the attached Planning Reforms Works Program subject to the inclusion of the Mooball Planning Proposal and enacting DCP being included as an immediate term priority subject to the payment of

relevant fees by the proponent for the processing of the proposal by an independent consultant in accord with Council's previous resolutions.

The Motion was **Carried**

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

9 [PR-CM] Planning Proposal PP11/0001 - Part Lot 378 DP 1148511 Overall Drive, Pottsville (Black Rocks Estate)

210
Cr W Polglase
Cr P Youngblutt

RESOLVED that:

1. Council endorses the preparation of a planning proposal for a change of land-use zone classification to enable Lot 378 DP 1148511 Overall Drive, Pottsville, to be developed for a low density residential purpose, and
2. The planning for Lot 378 DP 1148511 Overall Drive, Pottsville, be referred to the Department of Planning and Infrastructure for a 'Gateway' determination under Section 56 of the *Environmental Planning and Assessment Act 1979*, and
3. Any fees arising in association with the preparation of the planning proposal is to be applied in accordance with the Council's adopted Fees and Charges Schedule in force on the date of payment.

The Motion was **Carried**

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

10 [PR-CM] Tweed Development Control Plan Section A8 - Tweed Brothel Code

211
Cr D Holdom
Cr W Polglase

RESOLVED that:

1. Council endorses the adoption of Draft Tweed Development Control Plan 2008, Section A8 - Tweed Brothel Code; and

2. A public notice of Council's adoption of the Draft Tweed Development Control Plan 2008, Section A8 - Tweed Brothel Code, be published in the Council's newspaper, the Tweed Link, in accordance with Clause 21 and 22 of the Environmental Planning and Assessment Regulation 2000.

The Motion was **Carried**

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

- 11 **[PR-CM] Terranora Area E - Progress Report on Planning Processes and Major Project Application MP09/0166 for a 300 Lot Residential Subdivision at Lot 40, 43 DP 254416; Lot 2 DP 778727; Lot 1 DP 781687; Lot 1 DP 781697; Lot 1 DP 304649; Lot 1 DP 175235; L**

212
Cr D Holdom
Cr P Youngblutt

RESOLVED that:

1. The report on Terranora Area E - Progress Report on Planning Processes be received and noted; and
2. Council endorses forwarding this report to the Department of Planning and Infrastructure as a submission in relation to MP09_0166 for a 300 Lot Residential Subdivision at Lot 40, 43 DP 254416; Lot 2 DP 778727; Lot 1 DP 781687; Lot 1 DP 781697; Lot 1 DP 304649; Lot 1 DP 175235; Lot 1 DP 169490, Parkes Lane, Terranora (DA09/0701).

The Motion was **Carried**

FOR VOTE - Unanimous

- 12 **[PR-CM] Land and Environment Court Judgement relating to Development Application DA08/1056 for Conversion of an Existing Farm Shed to Rural Workers Dwelling at Lot 1 DP 803636, No. 9 Sanderson Place, Dungay**

213
Cr D Holdom
Cr P Youngblutt

RESOLVED that the report on Land and Environment Court Judgement relating to Development Application DA08/1056 for the conversion of an existing farm shed to rural workers dwelling at Lot 1 DP 803636, No. 9 Sanderson Place, Dungay be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

13 [PR-CM] Development Application D97/0175.02 for an Amendment to Development Consent D97/0175 for the Establishment of a Brothel/Escort Agency at Lot 6 DP 249122, No. 17 Morton Street, Chinderah

214

Cr D Holdom

Cr P Youngblutt

RESOLVED that Development Application D97/0175.02 for an amendment to Development Consent D97/0175 for the establishment of a brothel/escort agency at Lot 6 DP 249122, No. 17 Morton Street, Chinderah be approved and the consent be amended as follows:

1. Delete Condition No. 3 and replace it with Condition No. 3A which reads as follows:

3A. Fourteen (14) car parking spaces are to be provided and marked out in accordance with the plan submitted with the application in accordance with Tweed Development Control Plan Section A2 - *Site Access and Parking Code*.

2. Delete Condition No. 5 and replace it with Condition No. 5A which reads as follows:

5A. The establishment shall operate 24 hours a day, 7 days a week.

3. Delete Condition No. 10 and replace it with Condition No. 10A which reads as follows:

10A. Section 94 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Occupation Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

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

(a) Tweed Road Contribution Plan:

40.9615 Trips @ \$861 per Trips \$35268

(\$782 base rate + \$79 indexation)

S94 Plan No. 4

Sector6_4

NOTE: Previous Section 94 contributions have been received for the original development. A total of \$15,879.00 was received on 31/10/97 (receipt number 017139). As such the contributions in Condition 10A and 10B relate to the proposed additions.

4. Addition of new Condition No. 11 as there are additional section 64 water and sewer charges applicable to the subject site with the additional Gross Floor Area and which reads as follows:

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

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

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

Water DSP5: 2 ET @ \$11020 per ET \$22040

Sewer Kingscliff: 2.5 ET @ \$5295 per ET \$13237.50

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

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

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

5. Addition of new Condition No. 12 as there is new building work that currently exists which has not received approval and which reads as follows:
 12. Prior to the issue of an occupation certificate a Building Certificate in respect of the unauthorized building works the subject of this Section 96 application is to be obtained from Council. Such Building Certificate application is to include;
 - i. Certification from an "accredited certifier" that the construction of the above mentioned works satisfies the requirements contained within Volume One of the Building Code of Australia 2010.
 - ii. A Structural Engineer's "Certificate of Adequacy" certifying that the above mentioned works are structurally adequate in terms of resisting live and dead loads associated with its use.
 - iii. A fire safety certificate is to be submitted for all essential fire safety measures that are installed in the building inclusive of those contained in the additional building components the subject of this section 96 application. This certificate is to confirm that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

The Motion was **Lost**

FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner

AGAINST VOTE - Cr W Polglase, Cr B Longland, Cr K Milne, Cr J van Lieshout

It was noted that the reasons for refusal are that:

1. The proposal is not in accordance with DCP 8 - Brothels Policy and Draft Brothel Code.
2. The proposal is not in the public interest.
3. The building contains unauthorised building works.

14 [PR-CM] Development Application DA10/0480 for the Demolition of Existing Dwellings and Construction of a Refreshment Room and Ancillary Function Centre at Lots 9 and 10 Section 4 DP 2974 Nos. 9-11 River Street, South Murwillumbah and Road 5190 Stafford S

215

Cr D Holdom

Cr K Milne

PROPOSED that Development Application DA10/0480 for the demolition of existing dwellings and construction of a refreshment and ancillary function centre at Lots 9 and 10 Section 4 DP 2974; Nos. 9-11 River Street, South Murwillumbah and Road 5190 Stafford Street, South Murwillumbah be refused for the following reasons:

1. The application has failed to satisfy Clause 8(1) of the Tweed LEP 2000 specifically Clause 8(1)(c). The development will have an adverse cumulative impact in the shire created by lack of car parking spaces.
2. The application is not considered satisfactory with regard to parking and access. Adequate car parking has not been provided in accordance with Tweed Shire Council Development Control Plan Section A2 - Site Access and Parking Code.

216

AMENDMENT

Cr W Polglase

Cr P Youngblutt

RESOLVED that Council supports this application in principle and requests that a report be prepared outlining conditions for consideration at the Council meeting to be held in May.

The Amendment was **Carried**

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

AGAINST VOTE - Cr D Holdom, Cr K Milne

The Amendment on becoming the Motion was **Carried** - (Minute No 216 refers)

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

AGAINST VOTE - Cr D Holdom, Cr K Milne

15 [PR-CM] Development Application DA11/0107 for Dwelling Additions at Lot 18 DP 838549, No. 768 Terranora Road, Terranora

217
Cr D Holdom
Cr J van Lieshout

RESOLVED that:

1. State Environmental Planning Policy No. 1 objection to Clause 24 of Tweed Local Environmental Plan 2000 regarding setbacks to designated roads be supported and the concurrence of the Director-General of the Department of Planning and Infrastructure be assumed.
2. Development Application DA11/0107 for dwelling additions at Lot 18 DP 838549, No. 768 Terranora Road, Terranora be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 10 5635 sheets 01-05 prepared by JR's Design & Drafting Services dated Dec 2010 and site plan , except where varied by the conditions of this consent.
[GEN0005]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0115]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

3. The footings and floor slab are to be 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]

4. A construction certificate application for works that involve any of the following:-
 - connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - 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.
- b) Where Council is requested to issue a construction certificate for civil works associated with a subdivision consent, the

abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

[PCC1145]

PRIOR TO COMMENCEMENT OF WORK

5. 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]

6. 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]

7. 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,
- (i) 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]

8. 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]

DURING CONSTRUCTION

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

[DUR0005]

10. 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]

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

[DUR0245]

12. 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]

13. 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]

14. 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]

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

[DUR0445]

16. 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]

17. 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]

18. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction/demolition.

[DUR2185]

19. 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]

20. 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]

21. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.

[DUR2515]

22. 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]

23. 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

24. 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]

25. 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]

26. Prior to the occupation of any building and prior to the issue of any occupation certificate a final inspection report is to be obtained from Council to verify the satisfactory installation of all plumbing and drainage and the on-site sewage management facility.

[POC1035]

27. Prior to the issue of an occupation certificate or occupation of the additions, smoke detectors shall be installed in the existing dwelling, as well as the additions, in accordance with the provisions of part 3.7.2 of the Building Code of Australia and Australian Standard AS 3786.

[POCNS01]

The Motion was **Carried**

FOR VOTE - Unanimous



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