

Mayor: Cr B Longland

Councillors: Cr M Armstrong (Deputy Mayor)
G Bagnall
K Milne
C Byrne
W Polglase
P Youngblutt



TWEED
SHIRE COUNCIL

Minutes

Extraordinary Council Meeting Friday 31 May 2013

held at Murwillumbah Cultural and Civic Centre
commencing at 8.30pm

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 8.30pm.

IN ATTENDANCE

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

Also present were Mr Troy Green (Acting General Manager), Mr Michael Chorlton (Acting 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) and Mr Neil Baldwin (Manager Corporate Governance/Public Officer).

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 the Council Prayer read by the Mayor.

APOLOGIES

Nil.

DISCLOSURE OF INTEREST

Nil.

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

Nil.

ORDERS OF THE DAY

- 1 [NOR-Crs M Armstrong, G Bagnall and K Milne] [PR-CM] Draft Local Environmental Plan (LEP) 2012

NOTICE OF RESCISSION:

344

Cr K Milne
Cr G Bagnall

RESOLVED that the resolution at Minute Number 289-Item 25 [PR-CM] Draft Local Environmental Plan (LEP) 2012 of the Council Meeting held Thursday 16 May 2013 being:

... that draft Tweed Local Environmental Plan 2012 is endorsed subject to the amendments recommended under Part 3 of this Report, including recommendation No 52a to include environmental zones as exhibited under the draft Tweed Local Environmental Plan 2010, recommendation No 29 to include riparian clause, and including rationalisation of environmental protection zones on Council controlled land and:

1. *Council seeks advice from the Department of Planning and Infrastructure that the abovementioned changes can be made without the need for further public re-exhibition; and*
2. *The draft Tweed Local Environmental Plan 2012 be referred to the Director-General of the Department of Planning and Infrastructure, following its amendment under Resolution 1 above, for the draft local environmental plan to be made; and*
3. *That a draft local environmental plan (planning proposal) be prepared to fully implement Council's adopted approach to environmental protection (including State Environmental Planning Policy 44 Koala Habitat) consistent with outcomes of the State Government's review of the Environmental Zones and Overlays under the Standard Instrument (Local Environmental Plans) Order 2006, for the Far North Coast Region.*

be rescinded.

The Motion was Carried

FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland
AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne

Noted: A complaint lodged by James McKenzie in relation to the draft Local Environmental Plan (LEP) 2012 was provided to each Councillor and tabled at the meeting.

2 [NOM-Cr K Milne] Draft Local Environmental Plan (LEP) 2012

NOTICE OF MOTION:

345

**Cr K Milne
Cr G Bagnall**

PROPOSED that:

- A. Draft Tweed Local Environmental Plan 2012 is endorsed subject to the amendments recommended under Part 3 of this Report, including recommendation No 52a to include environmental zones as exhibited under the draft Tweed Local Environmental Plan 2010, recommendation No 29 to include riparian clause, and including rationalisation of environmental protection zones on Council controlled land and:
1. Council seeks advice from the Department of Planning and Infrastructure that the abovementioned changes can be made without the need for further public re-exhibition; and
 2. The draft Tweed Local Environmental Plan 2012 be referred to the Director-General of the Department of Planning and Infrastructure, following its amendment under Resolution 1 above, for the draft local environmental plan to be made; and
 3. That a draft local environmental plan (planning proposal) be prepared to fully implement Council's adopted approach to environmental protection (including State Environmental Planning Policy 44 Koala Habitat) consistent with outcomes of the State Government's review of the Environmental Zones and Overlays under the Standard Instrument (Local Environmental Plans) Order 2006, for the Far North Coast Region.
- B. Draft Tweed Local Environmental Plan 2012 includes the following:
1. The proposed W3 working waterways zoned area be changed to W2 recreation, except for the area known as the Southern Boatharbour to remain as W3
 2. Environmental facilities be permitted only 'with consent' in the zones where these facilities are proposed,
 3. To include in the R1 General Residential zone objectives:

To require high standards of Ecological Sustainable Development and Wildlife Conservation style development,

4. The B3, B4 and B5 zones to include in the objectives:

To ensure sympathetic development in areas of scenic amenity and to provide for the utilisation of these areas, or part thereof, for the wider community where possible,

5. The height for Tweed City shopping centre be RL21

6. The aims of the plan be amended as below:

1.2 Aims of Plan [compulsory]

- (1) This Plan aims to make local environmental planning provisions for land in Tweed in accordance with the relevant standard environmental planning instrument under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
 - (a) to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, and to be consistent with local indigenous cultural values, and the national and international significance of the Tweed Caldera,
 - (b) to encourage a sustainable, local economy, and promote small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed Shire,
 - (c) to ensure the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, the built environment, and cultural heritage,
 - (d) to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,
 - (e) to promote healthy and resilient communities and embrace the opportunities provided in transitioning to better building design, local food security, water conservation, energy efficiency and waste reduction,
 - (f) to ensure the responsible use of natural resources and facilitate the transition from fossil fuels to renewable energy,
 - (g) to conserve and enhance the biological diversity, scenic quality, agricultural capability, geological and ecological integrity of the Tweed,
 - (h) to ensure the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect and enhance the environmental significance of that land,

- (i) to conserve and enhance areas of high ecological values, and other areas that may reasonably be restored to high ecological values or wildlife corridors,
- (j) to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.

346

**Cr B Longland
Cr M Armstrong**

RESOLVED that Standing Orders be suspended to enable discussion in the Committee of the whole.

The Motion was **Carried**

**FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland
AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne**

Note: Discussion ensued on the proposed Motion and agreement was reached on the necessary amendments to be brought forward for consideration in the ordinary Council Meeting.

Cr Youngblutt left the meeting at 9.19pm.

Cr Youngblutt returned at 9.21pm.

347

**Cr B Longland
Cr G Bagnall**

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

**FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland
AGAINST VOTE - Cr C Byrne**

348

**Cr M Armstrong
Cr G Bagnall**

RESOLVED that the meeting be extended after 10.00pm to enable finalisation of agenda items.

The Motion was **Carried**

FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne

349

Cr P Youngblutt

Cr W Polglase

PROPOSED that the item be deferred for one week to enable further discussion.

The Motion was **Lost**

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne

AGAINST VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland

350

Cr B Longland

Cr M Armstrong

RESOLVED that Standing Orders be suspended to enable further discussion in the Committee of the whole.

The Motion was **Carried**

FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne

Cr Armstrong left the meeting at 10.07pm.

Cr Armstrong returned at 10.09pm

Cr Longland left the meeting at 10.16pm and Cr Armstrong Chaired the meeting.

Cr Longland returned at 10.18pm and resumed the Chair.

At the conclusion of the Committee of the Whole meeting Council had agreed on a substantive motion to go forward to the Ordinary Council Meeting.

351

Cr B Longland

Cr M Armstrong

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

352

Cr B Longland
Cr G Bagnall

PROPOSED that the Motion (Minute No 345) be put.

Note: This Motion lapsed due to the lack of speakers for and against.

353

AMENDMENT

Cr K Milne
Cr G Bagnall

RESOLVED that:

- A. Draft Tweed Local Environmental Plan 2012 is endorsed subject to the amendments recommended under Part 3 of the report considered at the Council Meeting of 16 May 2013, (Item 25 Minute Number 289) including recommendation No 52a to include environmental zones as exhibited under the draft Tweed Local Environmental Plan 2010, recommendation No 29 to include riparian clause, and including rationalisation of environmental protection zones on Council controlled land and:
1. Council seeks advice from the Department of Planning and Infrastructure that the abovementioned changes can be made without the need for further public re-exhibition; and
 2. The draft Tweed Local Environmental Plan 2012 be referred to the Director-General of the Department of Planning and Infrastructure, following its amendment under Resolution 1 above, for the draft local environmental plan to be made; and
 3. That a draft local environmental plan (planning proposal) be prepared to fully implement Council's adopted approach to environmental protection (including State Environmental Planning Policy 44 Koala Habitat) consistent with outcomes of the State Government's review of the Environmental Zones and Overlays under the Standard Instrument (Local Environmental Plans) Order 2006, for the Far North Coast Region.
- B. Draft Tweed Local Environmental Plan 2012 includes the following:
1. The maximum height limit for Tweed City Shopping Centre be RL21
 2. The aims of the plan be amended as below:
 - 1.2 Aims of Plan [compulsory]

- (1) This Plan aims to make local environmental planning provisions for land in Tweed in accordance with the relevant standard environmental planning instrument under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
 - (a) to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,
 - (b) to encourage a sustainable, local economy, small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed Shire,
 - (c) to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, the built environment, and cultural heritage,
 - (d) to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,
 - (e) to promote building design which considers food security, water conservation, energy efficiency and waste reduction,
 - (f) to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,
 - (g) to conserve or enhance the biological diversity, scenic quality, geological and ecological integrity of the Tweed,
 - (h) to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,
 - (i) to conserve or enhance areas of defined high ecological value,
 - (j) to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.

The Amendment was **Carried**

FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland
AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne

The Amendment on becoming the Motion was **Carried** - (Minute No 353 refers)

FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne

DRAFT LOCAL ENVIRONMENTAL PLAN (LEP) 2012

354

Cr B Longland

Cr K Milne

RESOLVED that Standing Orders be suspended to allow discussion of additional Items 7, 8 and 9 as submitted by Cr Milne in the Committee of the Whole.

The Motion was **Carried**

FOR VOTE - Cr M Armstrong, Cr K Milne, Cr G Bagnall, Cr B Longland

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne

Discussion took place in the Committee of the Whole on the addition of each of the following items to the substantive Motion (Minute No 353).

Item 7 That Council includes all Churches and educational establishments as SP2 zoning due to the vital service these organisations provide to the Tweed Shire communities. **(Not supported).**

***Note:** In many cases these establishments are the only facility of their type in the locality, and /or the only community facility in the locality servicing local needs. These facilities are particularly important in the Tweed Shire area due to severe public transport constraints, high unemployment and the highest rate of homelessness in NSW.*

Item 8 Telecommunications not be included as a land use. **(Not supported).**

Item 9 The Architectural roof features clause be restricted to medium density residential development and Seniors housing for lift over runs only. **(Not supported).**

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Cr B Longland

Cr M Armstrong

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS THROUGH THE ACTING GENERAL MANAGER

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

a3 [CNR-ECM] EC2012-191 - Project Update - Clarrie Hall Dam Spillway Flood Safety Upgrade Construction

LATE ITEM

356

Cr P Youngblutt
Cr C Byrne

RESOLVED that Item a3 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

FOR VOTE - Unanimous

357

Cr P Youngblutt
Cr M Armstrong

RESOLVED that, in relation to EC2012-191 Clarrie Hall Dam Spillway Flood Safety Upgrade Construction:

1. The General Manager be given delegated authority to approve the variations to the contract, once variation costs and delays are confirmed, up to the maximum value outlined in the confidential Attachment A.
2. The General Manager be given delegated authority to approve variations above the actual revised contract value to the maximum value of \$150,000, and those variations be reported to Council on a quarterly basis.
3. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) and (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 - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr K Milne,
Cr B Longland***

AGAINST VOTE - Cr G Bagnall

There being no further business the Meeting terminated at 11.09am.



Minutes of Meeting Confirmed by Council

at the

Council Meeting held on xxx

Chairman

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