



TWEED
SHIRE COUNCIL

Mayor: Cr K Milne

Councillors: G Bagnall (Deputy Mayor)
C Byrne
B Longland
W Polglase
P Youngblutt

Agenda

Extraordinary Council Meeting Thursday 23 June 2016

held at **Council Chambers, Murwillumbah Civic & Cultural Centre,
Tumbulgum Road, Murwillumbah** commencing at 3.00pm

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.

Items for Consideration of Council:

| ITEM | PRECIS | PAGE |
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| | ORDERS OF THE DAY | 5 |
| 1 | [NOR] Class 1 Appeal Development Application DA15/0201 for a 20 Lot Subdivision and Associated Works at Lot 156 DP 628026 No 40 Creek Street, Hastings Point | 5 |
| 2 | [NOM] Class 1 Appeal Development Application DA15/0201 for a 20 Lot Subdivision and Associated Works at Lot 156 DP 628026 No 40 Creek Street, Hastings Point | 6 |

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ORDERS OF THE DAY



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.2.1 Council will be underpinned by good governance and transparency in its decision making processes
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- 1 **[NOR] Class 1 Appeal Development Application DA15/0201 for a 20 Lot Subdivision and Associated Works at Lot 156 DP 628026 No 40 Creek Street, Hastings Point**

NOTICE OF RESCISSION:

Councillors C Byrne, W Polglase hereby give notice that at the Extraordinary meeting of Council we will move that the resolution from the meeting held on Thursday 6 August 2015 at Minute No 420 Item No C1 titled [PR-CM] Class 1 Appeal Development Application DA15/0201 for a 20 Lot Subdivision and Associated Works at Lot 156 DP 628026 No 40 Creek Street, Hastings Point being:

"... that Council engages its solicitors, and suitable consultants, if required, to defend the deemed refusal appeal for DA15/0201.

The basis of Council's defence includes, but is not limited to, aspects of the following that relate to the current Development Application:

1. *The reasons for refusal of the subdivision by the Department of Planning on 9 February 2012.*
2. *Council's refusal of DA13/0189 on 21 November 2013.*
3. *Draft amendments to the Hastings Point Locality Plan and Local Environmental Plan 2014 that relate to Council's resolution of 6 November 2014."*

be rescinded.

2 [NOM] Class 1 Appeal Development Application DA15/0201 for a 20 Lot Subdivision and Associated Works at Lot 156 DP 628026 No 40 Creek Street, Hastings Point

NOTICE OF MOTION:

Councillor C Byrne moves that:

- 1. Council engages its solicitors to either re-enter into the conciliation conference phase of the Class 1 Appeal in accordance with Section 34 of the Land and Environment Court Act 1979 for deemed refusal of DA15/0201 for a 20 lot subdivision and associated works at Lot 156 DP 628026, 40 Creek Street Hastings Point; or, if the Court does not agree that the matter is to return to conciliation, then Council engage it's solicitors to attempt to resolve the Class 1 Appeal should Council's experts ultimately agree that the Council's issues raised in the proceedings have been addressed by the Applicant (and that no further matters necessitate a refusal of the application); and**
- 2. Council advises its solicitors to request the submission of additional information by the applicant, pursuant to the current Court directions of 24 May 2016 by the 18 August 2016 relating to;**
 - a) Ground water modelling and monitoring on the site;**
 - b) Contamination of the site;**
 - c) Internal road design; and**
- 3. Staff is granted leave to negotiate a resolution of the matter by either a s34 Agreement or consent orders through an agreed path with the Court and applicant following the submission and assessment of the additional information by retained experts for the amended development being a 17 Lot residential subdivision with associated works.**

Councillor's Background Notes

Recommended Priority:

Nil

Description of Project:

Nil

Management Comments:

Delivery Program:

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- | | |
|-------|--|
| 1 | Civic Leadership |
| 1.2 | Improve decision making by engaging stakeholders and taking into account community input |
| 1.2.1 | Council will be underpinned by good governance and transparency in its decision making process |
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Budget/Long Term Financial Plan:

Council will continue to incur expenses for legal and consultancy services in the defence of this appeal.

Legal Implications:

The advice of Council's legal providers have been sought to inform this motion.

Policy Implications:

Nil.

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