



TWEED
SHIRE COUNCIL

Mayor: Cr K Milne

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

Minutes

Ordinary Council Meeting Thursday 1 June 2017

held at **Council Chambers, Murwillumbah Civic & Cultural Centre, Tumbulgum Road, Murwillumbah**
commencing at the conclusion of the Planning Committee meeting which commences at 5.30pm.

Principles for Local Government

The object of the principles for Tweed Shire Council, as set out in Section 8 of the Local Government Amendment (Governance and Planning) Bill 2016, is to provide guidance to enable council to carry out its functions in a way that facilitates a local community that is strong, healthy and prosperous.

Guiding Principles for Tweed Shire Council

(1) Exercise of functions generally

The following general principles apply to the exercise of functions by Tweed Shire Council:

- (a) Provide strong and effective representation, leadership, planning and decision-making.
- (b) Carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) Plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) Work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Work with others to secure appropriate services for local community needs.
- (h) Act fairly, ethically and without bias in the interests of the local community.
- (i) Be responsible employers and provide a consultative and supportive working environment for staff.

(2) Decision-making

The following principles apply to decision-making by Tweed Shire Council (subject to any other applicable law):

- (a) Recognise diverse local community needs and interests.
- (b) Consider social justice principles.
- (c) Consider the long term and cumulative effects of actions on future generations.
- (d) Consider the principles of ecologically sustainable development.
- (e) Decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

(3) Community participation

Council should actively engage with the local community, through the use of the integrated planning and reporting framework and other measures.

The Meeting commenced at 7.20pm.

IN ATTENDANCE

Cr Katie Milne (Mayor), Cr Chris Cherry (Deputy Mayor), Cr Pryce Allsop, Cr Ron Cooper, Cr James Owen and Cr Warren Polglase

Also present were Mr Troy Green (General Manager), Ms Liz Collyer (Director Corporate Services), Mr David Oxenham (Director Engineering), Mr Vince Connell (Director Planning and Regulation), Ms Tracey Stinson (Director Community and Natural Resources), Mr Shane Davidson (Executive Officer), Mr Neil Baldwin (Manager Corporate Governance) and Ms Ann Mesic (Minutes Secretary).

APOLOGIES

Attendee **Cr R Byrnes** has informed the General Manager that his absence is caused by being away interstate.

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Cr K Milne
Cr C Cherry

RESOLVED that the apology of **Cr R Byrnes** be accepted and the necessary leave of absence be granted.

FOR VOTE - Unanimous
ABSENT. DID NOT VOTE - Cr R Byrnes

DISCLOSURE OF INTEREST

Nil.

CONFIRMATION OF PLANNING COMMITTEE MINUTES

1 [CONMIN-CM] Adoption of the Recommendations of the Planning Committee Meeting held Thursday 1 June 2017

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Cr C Cherry
Cr R Cooper

RESOLVED that the recommendations of the Ordinary Planning Committee Meeting held Thursday 1 June 2017 be adopted.

1 [PR-PC] Development Application DA17/0003 for the Use of Site (Including Existing Sheds and Shipping Container) as Depot and

Associated Office at Lot 41 DP 870680 No. 606 Pottsville Road, Sleepy Hollow

RECOMMENDED:

- A. Development Application DA17/0003 for the use of site (including existing shed and unconstructed shed) as depot and associated office at Lot 41 DP 870680 No. 606 Pottsville Road, Sleepy Hollow be refused for the following reasons:
1. Pursuant to Section 79C (1) (a)(i) the development proposal has not demonstrated compliance with Clause 2.3(2) of Tweed Local Environmental Plan 2014, as the proposal is inconsistent with the objectives of the RU2 Rural landscape zone.
 2. Pursuant to Section 79C (1) (a)(i) the development proposal has not demonstrated compliance with Clause 7.10 of Tweed Local Environmental Plan 2014 as vehicular access to and from the site with sight distances to the north considered to be dangerous and not compliant.
 3. Pursuant to Section 79C (1) (a)(iii) the proposed development is contrary to the provisions of Tweed Shire Council Development Control Plan Section A2- Site Access and Parking Code, as minimum sight distance to access the site, is not considered adequate.
 4. Pursuant to Section 79C (1) (b) the depot is considered to create unacceptable impacts on the built environment and social impacts having regard to vehicular access, noise, amenity issues, waste collection and disposal, storage and disposal of asbestos, onsite sewerage management, which have not been adequately addressed or resolved in the subject application.
 5. Pursuant to Section 79C (1) (c) the site is considered not to be suitable for the development proposal, as the site is zoned RU2 Rural Landscape and is surrounded by RU2 land. The proposed depot is not compatible with the rural nature of the site and surrounding land.
 6. Pursuant to Section 79C (1) (e) the development proposal is not considered to be in the public interest having regard to potential impacts with respect to vehicular access, noise, amenity issues, waste collection and disposal, storage and disposal of Asbestos, onsite sewerage management, which have not been adequately addressed or resolved in the subject application.
- B. The depot use is to cease and all related machinery and equipment is to be removed from the site within 90 days from the date of notification or

Council will investigate legal action for the proposed unauthorised activity unless a new Development Application is submitted within the 90 days.

- 2 [PR-PC] Development Applications T4/2794.06, D94/0015.09 and PN1074.09 for an amendment to Development Consents T4/2794, D94/0015 and PN1074 for Extensions to an Existing Caravan Park to Accommodate a Total of 107 Movable Dwelling Sites at Lot 11 DP 1206666 No. 2 Barneys Point Road, Banora Point**

DECLARATION OF INTEREST

Cr C Cherry declared a Non-Significant, Non-Pecuniary conflict of interest in Item 2 [PR-PC] Development Applications T4/2794.06, D94/0015.09 and PN1074.09 for an amendment to Development Consents T4/2794, D94/0015 and PN1074 for Extensions to an Existing Caravan Park to Accommodate a Total of 107 Movable Dwelling Sites at Lot 11 DP 1206666 No. 2 Barneys Point Road, Banora Point.

The nature of this interest is that her family also owns a holiday park in the Tweed Shire and this application seeks to improve their site and increase their business.

Cr C Cherry will vacate the Chambers during discussion and voting.

RECOMMENDED that:

1. ATTACHMENT 3 is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains:-
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
2. Development Applications T4/2794.06, D94/0015.09 and PN1074.09 for an amendment to Development Consents T4/2794, D94/0015 and PN1074 for extensions to allow an additional 10 sites to an existing caravan park at Lot 11 DP 1206666 No. 2 Barneys Point Road, Banora Point be deferred and a report be brought back to 6 July 2017 Planning Committee meeting.

- 3 [PR-PC] DA12/0170 Halcyon House and Paper Daisy Restaurant - Lot 100 DP 1208306 No. 19-25 Cypress Crescent, Cabarita Beach**

An email was received from Planit Consulting Pty Ltd requesting deferral of this item.

RECOMMENDED that:

1. ATTACHMENT 4 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (a) *personnel matters concerning particular individuals (other than councillors)*

2. Council defer this item and a report be brought back to 6 July 2017 Planning Committee meeting.
 3. A warning letter be issued by the General Manager to the owners of Halcyon House and Paper Daisy restaurant that any further breaches of the hours of use or noise limits will result in fines or civil enforcement.
- 4 **[PR-PC] Council Submission on the Independent Pricing and Regulatory Tribunal (IPART) Application for a Network Operators and Retail Suppliers Licence for the Cobaki Waste Water Treatment Plant and Reticulation Network at 425 Piggabeen Road, Piggabeen**

DECLARATION OF INTEREST

Cr K Milne declared a Non-Significant, Non-Pecuniary conflict of interest in Item 4 [PR-PC] Council Submission on the Independent Pricing and Regulatory Tribunal (IPART) Application for a Network Operators and Retail Suppliers Licence for the Cobaki Waste Water Treatment Plant and Reticulation Network at 425 Piggabeen Road, Piggabeen.

The nature of this interest is due to legal matters with the Chairman of Leda Developments, Mr Ell.

Cr K Milne will remain in the Chambers during discussion and will vote on the merits of the item.

RECOMMENDED that Council endorse the attached submission (Attachment 1) to IPART, in response to the public exhibition of the Network Operators and Retail Suppliers Licence under the Water Industry Competition Act 2006 for the Cobaki development with the addition of due consideration to be given to localised flooding and drainage issues associated with the proposed waste water treatment plant site.

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

RECOMMENDED that Council notes the April 2017 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

- C1 **[PR-PC] Unauthorised Works within Crown Road Reserve, Zara Road, Limpinwood**

REASON FOR CONFIDENTIALITY:

This report concerns legal matters that could influence the appeal process.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

RECOMMENDED that in respect to unauthorised works within Crown Road Reserve, Zara Road, Limpinwood:

1. Council engages its solicitors to assist with the further investigations in accordance with the advice received against the person, persons or entity that undertook the unauthorised work within the Crown Road Reserve and adjacent land;
2. The General Manager writes to the relevant State Ministers with responsibility for the Office of the Environment and Heritage (including Environment Protection Authority – Forestry) and the Department of Industry - Lands seeking their support and assistance with Council's legal action where required by Council and or Council's lawyers; and
3. To support the legal action, consultants be engaged to undertake the appropriate assessment where required.

C2 [PR-PC] Unauthorised Works at Lot 1 DP 783892 No. 1110 Urliup Road, Urliup

REASON FOR CONFIDENTIALITY:

This report concerns legal matters that could influence the appeal process.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

RECOMMENDED that:

1. Council engages its solicitors to assist with the further investigations in accordance with the advice received against the person, persons or entity that undertook and/or is responsible for the unauthorised work within Lot 1 DP 783892 No 1110 Urliup Road, Urliup;
2. To support the legal action, consultants be engaged to undertake the appropriate assessment where required.

aC3 [PR-PC] Land and Environment Court Proceedings Update - DA16/0527 for the Demolition of Existing Structures and Erection of a Residential Flat Building (Seven Units) and Swimming Pool at Lot 14 Section 5 DP 758571 No. 204 Marine Parade, Kingscliff and Building Height and FSR Control LEP Expedited Amendment to Redress Interpretation of Inconsistency and Application Resulting in 4-Storey Residential Development

REASON FOR CONFIDENTIALITY:

The development application is subject to a current Land and Environment Court proceeding

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

RECOMMENDED that this item be deferred to an Extraordinary meeting to be held Monday 5 June 2017 at 5.30pm.

The Motion was **Carried**

FOR VOTE - Unanimous

ABSENT. DID NOT VOTE - Cr R Byrnes

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

2 [CNR-CM] Tweed Southern Boatharbour

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Cr C Cherry

Cr K Milne

RESOLVED that Council:

1. Approves the granting of a six month licence at the Tweed Southern Boatharbour, River Terrace at Tweed Heads to New South Wales (NSW) Fisheries and Roads and Maritime Services (RMS) commencing on 1 June 2017 and expiring on 31 December 2017 at licence fees reflecting the current licence fee paid by other licensees at the facility.

2. Executes all documentation under the Common Seal of Council.

The Motion was **Carried**

FOR VOTE - Unanimous
ABSENT. DID NOT VOTE - Cr R Byrnes

REPORTS FROM THE DIRECTOR ENGINEERING

3 [E-CM] Jack Julius Park

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Cr K Milne
Cr R Cooper

RESOLVED that Council defers this item to seek further advice.

The Motion was **Carried**

FOR VOTE - Unanimous
ABSENT. DID NOT VOTE - Cr R Byrnes

There being no further business the Meeting terminated at 7.32pm



**Minutes of Meeting Confirmed by Council
at the Meeting held on
xxx**

Chairman