



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 7 March 2019

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 6.02pm.

IN ATTENDANCE

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

Also present were Mr David Oxenham (Director Engineering), Mr Vince Connell (Director Planning and Regulation), Mr Michael Chorlton (Executive Manager Finance, Revenue and Information Technology), Mr Mathew Greenwood (Acting Executive Officer), Ms Stephanie Papadopoulos (Manager Corporate Governance) and Ms Ann Mesic (Minutes Secretary).

APOLOGIES

Nil.

DISCLOSURE OF INTEREST

Cr J Owen declared a Non-Significant, Non-Pecuniary Interest in Item 3 [E-CM] RFO2018086 Expression of Interest (EOI) Design, Construction of the Tweed Valley Rail Trail. The nature of the interest is that Cr J Owen's employer has some dealings with one of the potential bidders. Cr J Owen will manage the Interest by leaving the Chamber and not voting on the matter.

ITEMS TO BE MOVED FROM CONFIDENTIAL TO ORDINARY/ORDINARY TO CONFIDENTIAL

Nil.

CONFIRMATION OF PLANNING COMMITTEE MINUTES

1 [CONMIN-CM] Adoption of the Recommendations of the Planning Committee Meeting held Thursday 7 March 2019

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**Cr C Cherry
Cr R Byrnes**

RESOLVED that the recommendations of the Ordinary Planning Committee Meeting held Thursday 7 March 2019 be adopted.

1 [PR-PC] Development Application DA18/0661 for a Change of Use and Fit-out of Portion of Managers Residence to Take Away Food and Drink Premises at Lot 100 DP 1117102 No. 61 Marine Parade, Kingscliff

RECOMMENDED that Development Application DA18/0661 for a change of use and fit-out of portion of managers residence to take away food and drink premises at Lot 100 DP 1117102 No. 61 Marine Parade, Kingscliff 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 Sheet 1 of 6 Site Plan, Sheet 3 of 6 Proposed Ground Floor Plan, Sheet 4 of 6 Proposed Café Floor Plan, Sheet 5 of 6 Kitchen Elevation A-C and Kiosk Elevation A-D, and Sheet 6 of 6 Northern Elevation (open - closed) Western Elevation (open - closed) prepared by Parameter Designs and dated 14 January 2019, 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]
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. Any necessary adjustment or modification of existing services is to be undertaken in accordance with the requirements of the relevant authority, at the Developer's expense.
[GEN0135]
4. Any business or premises proposing to discharge wastewater containing pollutants differing from domestic sewage must submit a Liquid Trade Waste Application Form to Council. The application is to be approved by the General Manager or his delegate prior to any discharge to the sewerage system. A Liquid Trade Waste Application fee will be applicable in accordance with Council's adopted Fees and Charges.
[GEN0190]
5. This Development Consent authorizes the construction of a footpath as shown on Plan no. Sheet 3 of 6 Proposed Ground Floor Plan as amended by Council in blue and black ink to connect the take away food and drink premises with the existing curved path in Rowan Robinson Park. Such footpath is to be constructed prior to occupation of the take away food and drink premises.
[GENNS02]
6. All walls in the food preparation and storage areas shall be of solid construction. For this purpose walls in such areas may be of masonry or stud wall construction. If stud wall construction is used then the wall shall be lined as a minimum with 9mm thick high impact resistant material eg. Villaboard or Versilux lining or other suitable material(s) approved by Council's Environmental Health Officer and tiled to a height of at least 2 metres.

Masonry walls where not tiled may be cement rendered to provide a smooth faced impervious finish up to the underside of the ceiling.

Metal stud wall framing in lieu of timber framing shall be used in areas where the walls and floor surfaces will be subjected to high levels of moisture or alternatively as directed by Council's Environmental Health Officer.

All penetrations of the wall surface in food preparation areas shall be effectively sealed to the satisfaction of Council's Environmental Health officer.

[GENNS02]

7. All flooring materials in the food preparation and storage areas are to be impervious, non slip, non abrasive and capable of withstanding heavy duty operation. Where tiling is to be used epoxy grout finished flush with the floor surface is to be used in joints or alternatively all tiles are to be butt joined and free of cracks or crevices
[GENNS02]
8. Windows and doors opening into food handling, preparation and storage areas shall be pest proofed in accordance with the provisions of Food Safety Standard 3.2.3.
[GENNS02]
9. Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of the General Manager or his delegate.
[GENNS02]
10. All shelving, benches, fittings and furniture on which appliances and utensils are positioned within the premises must be of durable, smooth, impervious material capable of being easily cleaned.
[GENNS02]
11. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council prior to the occupation of the building or issue of Interim or Final Occupation Certificate (whichever comes first), 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, an 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 "Certificate of Compliance" signed by an authorised officer of Council.

BELOW IS ADVICE ONLY

The Section 64 Contributions for this development at the date of this approval have been estimated as:

Water: Nil
Sewer: Nil

[GENNS03]

12. In accordance with Section 68 of the Local Government Act, 1993 any premises proposing to discharge wastewater into Council's sewerage system other than domestic sewage, shall submit to Council a completed Liquid Trade Waste Application for a Liquid Trade Waste Services Agreement. The Application is to be approved by the General Manager or his delegate PRIOR to the issuing of a Building Certificate to discharge to Council's sewerage system.

13. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) by this development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[GENNS04]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

14. 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 6.9 and 6.10 unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

15. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

16. A final occupation certificate must be applied for and obtained within 6 months of any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein).

[POC0355]

17. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval.

[POC0615]

18. The premises is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request.

[POC0635]

19. 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]

20. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met.

[POC1055]

21. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for water, sewerage or drainage works relating to the take away food and drink premises prior to the issue of a Construction Certificate. This application is to include work as constructed sanitary drainage plans and certification of works in respect of AS3500 prepared by a licensed plumber relating to the food and drink premises.

[POCNS01]

22. Prior to the issue of an occupation certificate a Building Information Certificate is to be applied for and obtained from Council in respect of the take away food and drink premises. This application is to include work as constructed sanitary drainage plans and certification of works in respect of AS3500 prepared by a licenced plumber relating to the food and drink premises.

[POCNS01]

USE

23. 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]

24. Hours of operation of the business are restricted to 6.00am to 3.00pm, 7 days.

[USE0185]

25. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer.

[USE0245]

26. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act* 2003, FSANZ Food Safety Standards and AS 4674-2004 Design, construction and Fit-out of Food Premises and other requirements of Councils Environmental health Officer included in this approval.

[USE0835]

27. The premises shall be maintained in a clean and tidy manner.

[USE0965]

28. The disposal of all wash water, oil, grease or other pollutants from the business shall be disposed of to the satisfaction of Council's General Manager or his delegate as outlined in the Liquid Trade Waste Services Agreement and General Conditions of Approval.

[USE1055]

29. No tables and chairs are to be erected for use by the food and drink premises.

[USENS01]

2 [PR-PC] Draft Kingscliff Locality Plan - Exhibition Consultation Report

RECOMMENDED that Council:

1. Defers consideration of this report until the Planning Committee meeting of 4 April 2019 in order for a position to be resolved about the site of the proposed Tweed Valley Hospital.
2. Requests the State Government to publicly release the Tweed Health Precinct Background and Scenario Analysis report as prepared by Destraavis Group on behalf of the Department of Planning and Environment.

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

RECOMMENDED that Council notes there are no variations for the month of January 2019 to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

ORDERS OF THE DAY

Nil.

RECEIPT OF PETITIONS

2 [ROP-CM] Receipt of Petitions at 7 March 2019

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Cr C Cherry
Cr K Milne

RESOLVED that the following tabled Petition(s) be received and noted:

- Petition received on 21 February 2019 containing 208 signatures advising as follows:

"We, the undersigned, are opposed to the construction of the Proposed Telecommunications Facility as outlined in DA18/1052 at 47 Terranora Road, Banora Point. We ask Tweed Shire Council to decline this application and search for an alternative site."

The Motion was **Carried**

FOR VOTE - Unanimous

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR ENGINEERING

3 [E-CM] RFO2018086 Expression of Interest (EOI) Design, Construction of the Tweed Valley Rail Trail

Cr J Owen declared a Non-Significant, Non-Pecuniary Interest in this item. The nature of the interest is that Cr J Owen's employer has some dealings with one of the potential bidders. Cr J Owen will manage the interest by leaving the Chamber and not voting on the matter.

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Cr P Allsop
Cr W Polglase

PROPOSED that in respect to Contract RFO2018086 Expression of Interest (EOI) for Design and Construction of the Tweed Valley Rail Trail:

1. Council approves the following four companies to undertake an Early Tenderer Involvement (ETI) process to bid for the Tweed Valley Rail Trail Project works. At the conclusion of this ETI process, detailed Offers will be invited, including a price submission. At the conclusion of the next phase of the Offer process, a report to Council will be provided including prices of each submission. The four recommended companies are:

Bidder	ABN
SEE Civil Pty Ltd	88 115 963 427
BMD Urban Pty Ltd	65 158 035 539
Abergeldie Contractors Pty Ltd	47 004 533 519
Hazell Bros (QLD) Pty Ltd	46 145 228 986

2. Council invites the following alternative Companies (in order of preference) should any of the preferred Companies not be able or willing to enter into the Offer process for the Tweed Valley Rail Trail Project works

Bidder	ABN
Fulton Hogan Industries Pty Ltd	54 000 538 689
Bellwether Contractors Pty Ltd	57 151 250 047

3. ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

AMENDMENT 1

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Cr K Milne
Cr C Cherry

RESOLVED that:

1. Council approves the following four companies to undertake an Early Tenderer Involvement (ETI) process to bid for the Tweed Valley Rail Trail Project works. The four recommended companies are:

Bidder	ABN
SEE Civil Pty Ltd	88 115 963 427
BMD Urban Pty Ltd	65 158 035 539
Abergeldie Contractors Pty Ltd	47 004 533 519
Hazell Bros (QLD) Pty Ltd	46 145 228 986

2. Council invites the following alternative Companies (in order of preference) should any of the preferred Companies not be able or willing to enter into the Early Tenderer Involvement (ETI) process for the Tweed Valley Rail Trail Project works

Bidder	ABN
Fulton Hogan Industries Pty Ltd	54 000 538 689
Bellwether Contractors Pty Ltd	57 151 250 047

3. The ETI process is to be held in abeyance until a Funding Deed between the NSW State Government and Tweed Shire Council is formally executed and a further report be reported to Council.
4. ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
(c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

Amendment 1 was **Carried**

FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne
AGAINST VOTE - Cr W Polglase, Cr P Allsop
ABSENT. DID NOT VOTE - Cr J Owen

Amendment 1 on becoming the Motion was **Carried** - (Minute No 69 refers)

FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne
AGAINST VOTE - Cr W Polglase, Cr P Allsop
ABSENT. DID NOT VOTE - Cr J Owen

4 [E-CM] Water Strategies Review Methodology

Cr J Owen has returned from temporary absence at 06:25 PM

ALTERNATE MOTION

70

Cr K Milne
Cr C Cherry

RESOLVED that Council:

1. Endorses the proposed methodology for the Water Strategies Review Project outlined in the Background Summary and Methodology provided.
2. Endorses the draft Terms of Reference for the Water Strategies Review Project Reference Group with the meeting times to be a minimum of 8 meetings and a maximum of 12 meetings with reduced interval between meetings to meet the current proposed completion date.
3. Endorses the membership of the Water Strategies Review Project Reference Group as being:

Ms Rachel Eberhard
Mr Rob Learmonth
Mr Tony Thompson
Mr Samuel Dawson
Mr Richard Murray
Mr Don Beck
Ms Robyn Lemair
Ms Joanna Gardner
4. Nominates Councillors K Milne and P Allsop as members of the Water Strategies Review Project Reference Group.

The Motion was **Carried**

FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne
AGAINST VOTE - Cr J Owen, Cr W Polglase, Cr P Allsop

CONFIDENTIAL COMMITTEE

EXCLUSION OF PRESS AND PUBLIC

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Cr C Cherry
Cr P Allsop

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

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:-

CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

LATE ITEMS IN COMMITTEE

LATE REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

C1 **LATE [PR-PC] Class 1 Appeal - Development Application DA18/0133 for a 72 Lot Subdivision (Seabreeze Estate Stages 18A and 18B) at Lot 1747 DP 1215252; Seabreeze Boulevard Pottsville**

REASON FOR CONFIDENTIALITY:

Council has received a Class One Appeal for the refusal of Development Application DA18/0133.

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.

C 23

That Council's solicitors be engaged (and consultants as required) to defend the Appeal for Development Application DA18/0133 for a 72 lot subdivision at Lot 1747 DP 1215252 Seabreeze Boulevard, Pottsville.

The Motion was **Carried**

FOR VOTE - Unanimous

C2 LATE [PR-CM] Class 1 Appeal - Development Application DA16/0660 for a Water Extraction Facility at Lot 3 DP 1125925 No. 302 Dungay Creek Road, Dungay

REASON FOR CONFIDENTIALITY:

Council has received a Class 1 Appeal for the refusal of Development Application DA16/0660.

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.

C 25

That Council, in relation to the Class 1 Appeal for the refused application Development Application DA16/0660 for a water extraction facility at Lot 3 DP 1125925 No. 302 Dungay Creek Road, Dungay, engage solicitors, a barrister and any relevant experts to attend any necessary section 34 conference, defend the appeal and provide delegation under Section 377(1) of the Local Government Act 1993 to Council's General Manager and the Mayor to undertake negotiations as necessary.

The Motion was **Carried**

FOR VOTE - Unanimous

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Cr K Milne
Cr C Cherry

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 6.47pm



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

Chairman