



**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 2 May 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 5.37pm.

### **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 Troy Green (General Manager), Mr David Oxenham (Director Engineering), Mr Vince Connell (Director Planning and Regulation), Ms Tracey Stinson (Director Community and Natural Resources), Mr Michael Chorlton (Executive Manager Finance, Revenue and Information Technology), Mrs Suzanne Richmond (Executive Manager People, Communication and Governance), Mr Shane Davidson (Executive Officer), Ms Stephanie Papadopoulos (Manager Corporate Governance) and Ms Ann Mesic (Minutes Secretary).

### **APOLOGIES**

Nil.

### **DISCLOSURE OF INTEREST**

Nil.

### **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 2 May 2019**

173

**Cr C Cherry**  
**Cr P Allsop**

**RESOLVED** that the recommendations of the Ordinary Planning Committee Meeting held Thursday 2 May 2019 be adopted.

- 1 [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 April 2019 to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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## REPORTS THROUGH THE GENERAL MANAGER

### REPORTS FROM THE DIRECTOR ENGINEERING

#### 2 [E-CM] Licence for Temporary Access on Council Land - Tweed Heads Wastewater Treatment Plant

174

Cr P Allsop  
Cr W Polglase

**PROPOSED** that Council:

1. Approves granting of a temporary licence to Feitelson Holdings Pty Ltd and Garbind Pty Ltd over Lot 1 DP 1011625, for a term of 2 years, at a peppercorn rental.
2. Executes all necessary documentation under the Common Seal of Council.

#### **AMENDMENT 1**

175

Cr C Cherry  
Cr K Milne

**RESOLVED** that Council:

1. Defers granting of a temporary licence to Feitelson Holdings Pty Ltd and Garbind Pty Ltd over Lot 1 DP 1011625 until such time as the consent condition for allowing access through Council's property is amended.
2. Writes a letter to applicant seeking advice if the subject access road is intended to be the permanent access.
3. Seeks further details on the removal of major electricity infrastructure.
4. Seeks detailed specifications of the access road construction between the water quality control ponds on the development site and immediately adjacent tidal channel eg. width of road access/buffer area, extent of excavation and maintaining tidal regime and stormwater flow.
5. Requests that an Acid Sulfate Soil investigation be undertaken and management provisions be included in any works required for the access road that occur below ground level.
6. Requires the provision of above information to be considered with any approval of the license extension.
7. Advises the applicants that as per Condition 26A(f) a table identifying compliance with the conditions of consent will be required for consideration of an extension of the temporary access.

8. As part of the modification application seeks to negotiate improved environmental outcomes in accordance with the Coastal Management State Environmental Planning Policy.

Cr J Owen temporarily left the meeting at 05:49 PM.

Cr J Owen has returned from temporary absence at 05:49 PM

Amendment 1 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**

Amendment 1 on becoming the Motion was **Carried** - (Minute No 175 refers)

**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**

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**3 [E-CM] Alteration of Locality Boundary between Chinderah and Kingscliff**

176

**Cr P Allsop**

**Cr C Cherry**

**RESOLVED** that:

1. The request to alter the locality boundary between Kingscliff and Chinderah be declined.
2. ATTACHMENT 1 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).

The Motion was **Carried**

**FOR VOTE - Unanimous**

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**4 [E-CM] RFO2019019 Supply of Road Construction Quarry Materials (Panel of Providers)**

177

**Cr C Cherry**

**Cr R Cooper**

**RESOLVED** that in respect to Contract RFO2019019 Supply of Road Construction Quarry Materials (Panel of Providers):

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1. Council awards the following organisations a place on the Panel of Providers for the contract RFO2019019 Supply of Road Construction Quarry Materials (Panel of Providers) for the period 19 May 2019 to 18 May 2020, with provision for 2 x 6 month contract extension options available to be exercised at Director – Engineering’s sole discretion for their submitted rates included in the Confidential Attachment 1 RFO2019019 Offer Evaluation Report:

Bidder	ABN
Graham’s Quarry	32302591771
Hanson Australia Pty Ltd	86000186845
Uki Quarry Pty Ltd	17097349794
Hy-Tec Industries (QLD) Pty Ltd	54102801061
NUCRUSH Pty Ltd	23010119981
O’Keefe Quarries Pty Ltd	59134174020
Boral Resources (QLD) Pty Ltd	46009671809

2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council six monthly and at finalisation of the contract.
3. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
- (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 - Unanimous***

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## **5 [E-CM] RFO2019033 2018-2019 Asphalt Resurfacing Program**

178

**Cr P Allsop**  
**Cr R Cooper**

**RESOLVED** that in respect to Contract RFO2019033 2018-2019 Asphalt Resurfacing Program:

1. Council awards the offer to East Coast Asphalt and Concrete Edging ABN 51 755 877 285 for the amount of \$1,603,060.70 (exclusive of GST).
2. The General Manager be granted delegated authority to approve appropriately deemed variations to the contract and those variations be reported to Council six monthly and at finalisation of the contract.

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

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**REPORTS FROM THE EXECUTIVE MANAGER FINANCE, REVENUE AND INFORMATION TECHNOLOGY**

**6 [FRIT-CM] Fossil Fuel Divestment**

**ALTERNATE MOTION**

**179**

**Cr K Milne  
Cr P Allsop**

**RESOLVED** that this item be received and noted.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**CONFIDENTIAL COMMITTEE**

**EXCLUSION OF PRESS AND PUBLIC**

**180**

**Cr K Milne  
Cr R Cooper**

**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***

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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**

### **REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE**

**C1 [PR-CM] Unauthorised Forestry and Road Works at Lot 136 DP 755724 Boormans Road, Limpinwood**

#### **REASON FOR CONFIDENTIALITY:**

This report is the subject of current legal action.

#### **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.

#### **ALTERNATE MOTION**

#### **C 44**

That in respect of alleged unauthorised works on the premises Lot 136 DP 755724, Boormans Road, Limpinwood, Council defers this item pending the outcomes of further negotiation in regard to Items C1 and C2 of this Council agenda.

The Motion was **Carried**

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

**AGAINST VOTE - Cr J Owen**

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**C2 [PR-CM] Alleged Unauthorised Works within Crown Road Reserve - Zara Road, Limpinwood**

**REASON FOR CONFIDENTIALITY:**

This matter is subject to current legal proceedings.

**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.

**ALTERNATE MOTION**

**C 45**

That Council:

1. Continues to negotiate with Hickey Lawyers in regard to Items C1 and C2 of this Council agenda for an agreed outcome within 21 days.
2. Provides delegated authority to the General Manager, Mayor and Cr Polglase to negotiate and agree a satisfactory outcome with Hickey Lawyers on Council's behalf. Failing an agreed position between the delegates the matter be brought back to a Council meeting for decision.
3. Failing an agreed outcome Council pursues legal action on Items C1 and C2.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE**

**C3 [CNR-CM] RFO2019027 Upgrade Works to the Tweed Heads Civic Centre - Cultural Plaza, Social Enterprise Cafe and Library Reading Room**

**REASON FOR CONFIDENTIALITY:**

Contains information that may provide a commercial advantage to competitors.

**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: -

- (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.

**C 46**

That in respect to Contract RFO2019027 Upgrade Works to the Tweed Heads Civic Centre-Cultural Plaza, Social Enterprise Cafe and Library Reading Room:

1. Council declines to accept any of the Offers in accordance with Regulation 178 of the Local government (General) Regulation 2005.
2. The General Manager be granted delegated authority to undertake negotiations with Greg Clark Building Pty Ltd (ABN- 92 003 846 026) and/or any other suitably qualified suppliers in order to determine whether a more cost-effective solution can be developed and the results of those negotiations be reported to Council.
3. ATTACHMENT 1 is 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.
  - (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 - Unanimous***

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**181**

**Cr K Milne  
Cr C Cherry**

**RESOLVED** that the recommendations of the Confidential Committee be adopted.

The Motion was **Carried**

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

There being no further business the Meeting terminated at 6.51pm.



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

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**Chairman**