



TWEED
SHIRE COUNCIL

Mayor: Cr B Longland (Mayor)

Councillors: P Youngblutt (Deputy Mayor)
D Holdom
K Milne
W Polglase
K Skinner
J van Lieshout

Minutes

Planning and Regulation Reports

Ordinary Council Meeting

Tuesday 17 April 2012

held at Murwillumbah Cultural and Civic Centre
commencing at 10.30am

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 10.59am.

IN ATTENDANCE

Cr B Longland (Mayor), Cr P Youngblutt (Deputy Mayor), Cr D Holdom, Cr K Milne, Cr W Polglase, Cr K Skinner and Cr J van Lieshout.

Also present were Mr Mike Rayner (General Manager), Mr Troy Green (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), Mr Neil Baldwin (Manager Corporate Governance/Public Officer) and Mrs Maree Morgan (Minutes Secretary).

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

7 [PR-CM] Sale of Goods and Services at Public Markets on Council Controlled Land

1

**Cr P Youngblutt
Cr K Milne**

PROPOSED that Council:

1. Approves amendment to the Market Management Plan Guidelines to include a specific requirement that priority be given by market operators for participation by stall holders who sell locally produced goods and services, arts and crafts and organics.
2. Offers an extension of time to the current market operators for a further three month period, if necessary.
3. Approves the calling of expressions of interest from persons wishing to operate the Kingscliff, Pottsville, Recreation Street Tweed Heads and Knox Park Murwillumbah markets from 1 July 2012 for a three year period.

2

AMENDMENT

**Cr K Milne
Cr J van Lieshout**

RESOLVED that Council

1. Approves amendment to the Market Management Plan Guidelines to include a specific requirement that priority be given by market operators for participation by stall holders who sell locally produced goods and services, arts and crafts and organics.
2. Offers an extension of time to the current market operators for a further three month period, if necessary.
3. Approves the calling of expressions of interest from persons wishing to operate the Kingscliff, Pottsville, Recreation Street Tweed Heads and Knox Park Murwillumbah markets from 1 July 2012 for a three year period.
4. The General Manager invites the Chief Executive Officer of Destination Tweed to a meeting regarding possible future options of Destination Tweed working with individual market operators to assist in growing the market profiles within the Shire and tourism in general.

The Amendment was **Carried**

FOR VOTE - Cr K Skinner, Cr K Milne, Cr J van Lieshout, Cr B Longland
AGAINST VOTE - Cr D Holdom, Cr W Polglase, Cr P Youngblutt

The Amendment on becoming the Motion was **Carried** - (Minute No **213** refers)

FOR VOTE - Cr K Skinner, Cr K Milne, Cr J van Lieshout, Cr B Longland
AGAINST VOTE - Cr D Holdom, Cr W Polglase, Cr P Youngblutt

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

3

Cr P Youngblutt
Cr D Holdom

RESOLVED that Council notes the March 2012 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

9 [PR-CM] Tweed Heads State Emergency Service (SES)

4

Cr D Holdom
Cr P Youngblutt

RESOLVED that Council:

1. Advises the Crown Lands Division, Department of Primary Industries - Catchment and Lands that a diligent investigation of Council-owned land has revealed no suitable alternative sites exist for the accommodation of the State Emergency Service (SES) Tweed Heads Unit;
2. Advises the Crown Lands Division, Department of Primary Industries - Catchment and Lands of the results of the public consultation process that revealed that the majority of the community sought no alternatives/offsets for the loss of land for public recreation and open space;
3. Commits to conducting further consultation with the Banora Point community to investigate the improvement of local public recreation facilities at Darlington Green and Darlington Drive Parklands; and
4. Requests the Crown Lands Division, Department of Primary Industries - Catchment and Lands to progress the previous request to obtain long term tenure of the State Emergency Service (SES) at Lot 682 DP 41192 Pioneer Parade, Banora Point and seeking in principle support to extend the current facilities.

The Motion was **Carried**

FOR VOTE - Unanimous

10 [PR-CM] Planning Proposal PP11/0004 Draft Local Environmental Plan Amendment No. 96 Tweed City Shopping Centre

5

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council endorses Lot 5 in DP 830973, No. 24A Kirkwood Road, Tweed Heads South, to be incorporated into the current planning proposal PP11/0004, Draft Tweed Local Environmental Plan 2000 Amendment No. 96, subject to the prior written landowners consent of that property being provided.

The Motion was **Carried**

FOR VOTE - Cr D Holdom, Cr W Polglase, Cr P Youngblutt, Cr K Skinner, Cr K Milne, Cr B Longland

AGAINST VOTE - Cr J van Lieshout

11 [PR-CM] Planning Proposal PP10/0001 - Lot 10 DP 1084319 "Boyds Bay Garden World Site", Tweed Heads West

6

Cr K Skinner
Cr W Polglase

RESOLVED that Council in respect of Planning Proposal PP10/0001 – Lot 10 DP 1084319 “Boyds Bay Garden World site” Tweed Heads West approves an amendment to Draft Clause 53G in Tweed Local Environmental Plan 2000 (TLEP 2000) Amendment No. 93, as provided as Attachment 2 to this report.

The Motion was **Carried**

FOR VOTE - Cr D Holdom, Cr W Polglase, Cr P Youngblutt, Cr K Skinner, Cr K Milne, Cr B Longland

AGAINST VOTE - Cr J van Lieshout

12 **[PR-CM] Response to a Notice of Motion - Sustainability Development Control Plan**

7

Cr D Holdom
Cr P Youngblutt

RESOLVED that:

1. The report to a Notice of Motion - Sustainability Development Control Plan be received and noted.
2. Council supports a review of Development Control Plan (DCP) A5 – Subdivision Manual, be undertaken, as soon as resources permit and to build upon existing sustainability and urban design principles.

The Motion was **Carried**

FOR VOTE - Unanimous

13 **[PR-CM] Response to a Notice of Motion - Policy Obstacles and Opportunities for Roadside Stalls**

8

Cr D Holdom
Cr P Youngblutt

RESOLVED that Council endorses the recommended actions within this report relating to roadside stalls comprising of:

- a) The short-term response for encouraging roadside stalls is to provide an information sheet that clearly sets out where they are permissible and the requirements for obtaining an approval,
- b) To foster greater knowledge and use of roadside stalls by establishing a tourist road map accessible through the Council's web site. This would comprise:
 - A shire map pin pointing the location of the roadside stalls
 - A drop-down box that would list the key produce sold
 - A series of tourist drive maps based on the location of roadside stalls with interactive features such as a photograph of the stall, background about the owners and the history of the farming activity and a full list of the produce available from the stall.
- c) In response to the growing demand and relevance of urban agriculture, identifies a policy approach in the Planning Reform's work program for formal consideration.
- d) Provides specific actions and recommendations for increasing the awareness and general access to local produce as part of the Sustainable Agriculture Strategy currently being prepared.

The Motion was **Carried**

FOR VOTE - Unanimous

14 [PR-CM] Development Application DA11/0499.01 for an Amendment to Development Consent DA11/0499 for a Medical Centre Including Specialist Consultation (eg Speech Pathology), Pharmacy, Kiosk and Administration Facilities at Lot 5 DP 1113248; No. 33-35 Corporation Circuit, Tweed Heads South

9

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that Development Application DA11/0499.01 for an amendment to Development Consent DA11/0499 for a medical centre including specialist consultation (eg speech pathology), pharmacy, kiosk and administration facilities at Lot 5 DP 1113248; No. 33-35 Corporation Circuit, Tweed Heads South be amended by:

1. Deleting Condition No. 18 and replacing it with Condition No. 18A which reads as follows:
 - 18A Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the public infrastructure constructed for the development (not less than \$1000).
-

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Occupation Certificate is issued.

[PCC0275]

2. Deleting Condition No. 16 and replacing it with Condition No. 16A which reads as follows:-

16A. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000:

In respect of sub-paragraph (a) Tweed Road Contribution Plan, the following schedule of deferred payments of the required Section 94 Contributions shall be adhered to:

- 25% shall be paid prior to the issue of a Construction Certificate by a Certifying Authority;
- a further 50% of the required contributions shall be paid at the completion of the construction of the proposed building to the satisfaction of the General Manager or his delegate; and
- the remaining balance of 25% shall be paid prior to the issue of an Occupation Certificate by a Certifying Authority.

For each of the payment milestones the Certifying Authority is required to sight Council's "Contribution Sheet" signed by an authorised officer of Council, and provide evidence of the payment of each of the milestones;

In respect of sub-paragraph (b) Extensions to Council Administration Offices & Technical Support Facilities, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

These charges include indexation provided for in the S94 Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

- (a) Tweed Road Contribution Plan:
318.33 Trips @ \$1318 per Trips \$419,559
((\$1318 base rate + \$0 indexation)
S94 Plan No. 4
Sector2_4
- (b) Extensions to Council Administration Offices
& Technical Support Facilities
1.098669 ET @ \$1772.82 per ET \$1,947.74
((\$1759.9 base rate + \$12.92 indexation)
S94 Plan No. 18

The Motion was **Carried**

FOR VOTE - Unanimous

15 [PR-CM] Development Application DA11/0527 for an Attached Dual Occupancy at Lot 21 DP 1124438; No. 27 Charles Street, Tweed Heads

10

**Cr K Skinner
Cr P Youngblutt**

PROPOSED that Development Application DA11/0527 for an attached dual occupancy at Lot 21 DP 1124438 No. 27 Charles Street, Tweed Heads be granted in principle support for the proposal and that the officers bring back a further report to Council with possible conditions of development consent.

The Motion was **Lost**

***FOR VOTE - Cr W Polglase, Cr P Youngblutt, Cr K Skinner
AGAINST VOTE - Cr D Holdom, Cr K Milne, Cr J van Lieshout, Cr B Longland***

11

**Cr K Milne
Cr J van Lieshout**

RESOLVED that Development Application DA11/0527 for an attached dual occupancy at Lot 21 DP 1124438; No. 27 Charles Street, Tweed Heads be refused for the following reasons:

1. The proposed development comprises a three (3) storey building in a zone with a two (2) storey height restriction. The proposed development does not comply with Clause 16 of the Tweed Local Environmental Plan 2000.
2. The proposed development, by reason of its three (3) storey height, is considered to be inconsistent with the majority of surrounding development in the locality, which consists predominantly of one (1) and two (2) storey buildings. The development application has failed to justify the proposed variation to the applicable development standard in relation to building height. Therefore the proposed three (3) storey building is not consistent with the aims of the State Environmental Planning Policy No. 1 (Development Standards) and the SEPP 1 Objection to vary the development standard is not well founded or justified in this instance.
3. The proposed development, by reason of its height, scale and bulk, would be inconsistent with the character and appearance of surrounding residential development, that predominantly consists of one (1) and two (2) storey residential development and, if approved, would set a harmful precedent for similar development in the locality. The proposed development would therefore be contrary to the objectives of Clause 4, Clause 8, Clause 11 and Clause 16 of the Tweed Local Environmental Plan 2000; Clause 32B and Clause 43 of the North Coast Regional Environmental Plan and the aims and objectives of the State Environmental Planning Policy (SEPP) 71.
4. The proposed development comprises variations to the Tweed Shire Council Development Control Plan (DCP) Section A1, Part B (Residential and Tourist Code) in relation to the impact of the scale and height of the proposed building on streetscape amenity, dominance of garages, sunlight access, basement garage provisions, lack of integration of internal and external outdoor space and in relation to floor space ratio for attached dual occupancy development. The proposal therefore fails to adequately comply with the Tweed Development Control Plan Section A1 Part B.
5. The Tweed Development Control Plan 2008 requires a Floor Space Ratio of 0:55:1 for an attached dual occupancy development where the dwellings cover more than 50% of the site. The development proposes a Floor Space Ratio of 0.80:1 which does not comply with the requirements of the Tweed Development Control Plan 2008.

The Motion was **Carried**.

***FOR VOTE - Cr D Holdom, Cr K Milne, Cr J van Lieshout, Cr B Longland
AGAINST VOTE - Cr W Polglase, Cr P Youngblutt, Cr K Skinner***

Cr W Polglase left the meeting at 12:13 PM

16 [PR-CM] Review of Local Government Engagement with the NSW Rural Fire Service

T12

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:

1. Council advises the Local Government and Shires Association of NSW of its support for Option 1 – Retract Local Governments operational involvement with the Rural Fire Service; and
2. The General Manager organises a Workshop between Council and the author of the discussion paper prepared by the Local Government and Shires Association to better understand the many matters affecting the operational administration of the Rural Fire Service (RFS) and Council.

Cr W Polglase has returned from temporary absence at 12:15 PM

Cr P Youngblutt left the meeting at 12:18 PM

Cr P Youngblutt has returned from temporary absence at 12:19 PM

13

AMENDMENT

**Cr J van Lieshout
Cr K Milne**

PROPOSED that this report be deferred and a Workshop undertaken.

The Amendment was **Lost**

FOR VOTE - Cr K Milne, Cr J van Lieshout

AGAINST VOTE - Cr D Holdom, Cr W Polglase, Cr P Youngblutt, Cr K Skinner, Cr B Longland

The Motion was **Carried** (Minute No **223** refers)

FOR VOTE - Cr D Holdom, Cr W Polglase, Cr P Youngblutt, Cr K Skinner

AGAINST VOTE - Cr K Milne, Cr J van Lieshout, Cr B Longland

ADJOURNMENT OF MEETING

Adjournment for lunch at 12.30pm.

RESUMPTION OF MEETING

The Meeting resumed at 1.30pm

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:-

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

1 [PR-CM] New Kingscliff Police Station Development Application (DA11/0257) Third Party LEC Appeal

DECLARATION OF INTEREST

Cr K Skinner declared a perceived non-significant, non-pecuniary Interest in this item, left the Chamber at 04:22 PM and took no part in the discussion or voting. The nature of the interest is that he is a member of the Tweed Business and Residents Focus Group who are a party of this legal action.

REASON FOR CONFIDENTIALITY:

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 20

That Council, in respect of the current third party appeal lodged in the NSW Land and Environment Court by the Tweed Business and Residents Focus Group against the development consent (DA11/0257) to demolish the existing facility, and erect a new police station for the Tweed Byron Regional Command at Kingscliff, supports the following actions:

1. Advises the applicant for the appeal that the subject premises has no street number, and be invited to consider their position, including discontinuance of the appeal;
2. Following a response to Point 1, Council further considers its position regarding the appeal;
3. The other parties involved in the appeal be informed of the street numbering issue; and
4. Council's solicitors be requested to draft the necessary correspondence to the relevant parties.

The Motion was **Carried**

FOR VOTE - Cr D Holdom, Cr P Youngblutt, Cr K Milne, Cr J van Lieshout, Cr B Longland

AGAINST VOTE - Cr W Polglase

ABSENT. DID NOT VOTE - Cr K Skinner

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