



**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 24 January 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 10.35am.

## **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 Anthony Burnham (Acting Director Community and Natural Resources), Mr Neil Baldwin (Manager Corporate Governance/Public Officer) and Mrs Maree Morgan (Minutes Secretary).

## **DISCLOSURE OF INTEREST**

### **Declaration Cobaki/Kings Forest - Cr K Milne**

Cr K Milne made a statement with regard to Item 6 [PR-CM] Kings Forest Stage 1 Project Application and Amendment 2 to the Concept Plan - Council's Submission to the NSW Department of Planning and Infrastructure, listed in the Agenda:

*I would like to make a statement to clarify my participation in relation to Item 6 in today's business papers.*

*I have considered the relevant provisions of Council's Code of conduct and I believe there are no impediments to me participating in debate and voting on these matters despite a defamation claim served against me, on 20 December 2010, by Mr William Robert (Bob) Ell, the owner of Kings Forest and Cobaki developments.*

*I am of the view that these circumstances do not create a private interest for me in these items, either directly or by association.*

*As many will be aware, I have had an ongoing involvement in the larger policy issues of greenfield developments well before 20 December 2010, and I will continue to participate in discussion and voting on such matters from a public interest perspective, and - where an item involves consideration of a development application - on merits of each application."*

**1**

**Cr B Longland  
Cr D Holdom**

**RESOLVED** that Standing Orders be suspended to deal with Item 6 of the Agenda.

The Motion was **Carried**

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

2

**Cr D Holdom**  
**Cr J van Lieshout**

**RESOLVED** that Council moves into Committee of the Whole to discuss Item 6 of the Agenda.

The Motion was **Carried**

**FOR VOTE - Unanimous**

### **RESUMPTION OF STANDING ORDERS**

3

**Cr D Holdom**  
**Cr J van Lieshout**

**RESOLVED** that Standing Orders be resumed.

The Motion was **Carried**

**FOR VOTE - Unanimous**

6            **[PR-CM] Kings Forest Stage 1 Project Application and Amendment 2 to the Concept Plan - Council's Submission to the NSW Department of Planning and Infrastructure**

Cr Milne declared an interest in this item and did not leave the Chambers during the discussion on this matter.

4

**Cr K Milne**  
**Cr D Holdom**

**PROPOSED** that Council endorses this report to form the basis of a submission to the NSW Department of Planning and Infrastructure in respect to the Stage 1 Project Application for Kings Forest.

5

### **AMENDMENT 1**

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**Cr W Polglase  
Cr P Youngblutt**

**PROPOSED** that Council:

1. Endorses this report to form the basis of a submission to the NSW Department of Planning and Infrastructure in respect to the Stage 1 Project Application for Kings Forest, with the removal of the recommendation within the report stating "*That the Koala Plan of Management be reviewed to ensure: (1) implementation of a complete ban on dogs within the site; and (2) provision is made to enable additional patrols and compliance by Council Rangers to police the ban*".
2. Advises the Department of Planning of its concerns as identified in the Koala Plan of Management to ensure of the continued healthy existence of koalas and consideration of the threat of residents dogs to the development

The Amendment 1 was **Carried** and become the Motion - (Minute No **7** refers)

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

Cr P Youngblutt left the meeting at 12:06 PM

**6**

## **AMENDMENT 2**

**Cr B Longland  
Cr K Milne**

**PROPOSED** that Council:

1. Endorses this report to form the basis of a submission to the NSW Department of Planning and Infrastructure in respect to the Stage 1 Project Application for Kings Forest, with the removal of the recommendation within the report stating "*That the Koala Plan of Management be reviewed to ensure: (1) implementation of a complete ban on dogs within the site; and (2) provision is made to enable additional patrols and compliance by Council Rangers to police the ban*".
2. Advises the Department of Planning of its concerns as identified in the Koala Plan of Management to ensure of the continued healthy existence of koalas and consideration of the threat of residents dogs to the development.
3. In light of the new and dire information provided in the Tweed Coast Koala Habitat Study 2011, requests the NSW Planning Department allow for the Comprehensive Tweed Coast Koala Plan of Management to be finalised, and the Kings Forest Concept Plan be reviewed accordingly, before any development consideration, so that current and appropriate planning controls can be applied.

Cr P Youngblutt has returned from temporary absence at 12:06 PM

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## PROCEDURAL MOTION

7

Cr J van Lieshout  
Cr P Youngblutt

**RESOLVED** that the Motion be put.

The Motion was **Carried**

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

The Amendment 2 was **Lost**

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

8

## AMENDMENT 3

Cr K Milne  
Cr B Longland

**PROPOSED** that Council:

1. Endorses this report to form the basis of a submission to the NSW Department of Planning and Infrastructure in respect to the Stage 1 Project Application for Kings Forest, with the removal of the recommendation within the report stating "*That the Koala Plan of Management be reviewed to ensure: (1) implementation of a complete ban on dogs within the site; and (2) provision is made to enable additional patrols and compliance by Council Rangers to police the ban*".
2. Advises the Department of Planning of its concerns as identified in the Koala Plan of Management to ensure of the continued healthy existence of koalas and consideration of the threat of residents dogs to the development.
3. In light of the new and dire information provided in the Tweed Coast Koala Habitat Study 2011, requests the NSW Planning Department allow for the Comprehensive Tweed Coast Koala Plan of Management to be finalised, and the Kings Forest Concept Plan be reviewed accordingly, so that current and appropriate planning controls can be applied.

The Amendment 3 was **Lost**

***FOR VOTE - Cr K Skinner, Cr K Milne, Cr B Longland***

***AGAINST VOTE - Cr D Holdom, Cr W Polglase, Cr P Youngblutt, Cr J van Lieshout***

#### **ADJOURNMENT OF MEETING**

Adjournment for lunch at 12.35pm.

#### **RESUMPTION OF MEETING**

The Meeting resumed at 1.32pm

#### **SUSPENSION OF STANDING ORDERS**

**9**

**Cr D Holdom**

**Cr B Longland**

**RESOLVED** that Standing Orders be suspended and move into Committee of the Whole to deal with a further amendment to Item 6 of the Agenda.

The Motion was **Carried**

***FOR VOTE - Cr D Holdom, Cr K Skinner, Cr K Milne, Cr B Longland***

***AGAINST VOTE - Cr W Polglase, Cr P Youngblutt, Cr J van Lieshout***

**10**

**Cr J van Lieshout**

**Cr D Holdom**

**RESOLVED** that Standing Orders be resumed.

The Motion was **Carried**

***FOR VOTE - Unanimous***

**11**

#### **AMENDMENT 4**

**Cr D Holdom**

**Cr K Milne**

**RESOLVED** that Council:

1. Endorses this report to form the basis of a submission to the NSW Department of Planning and Infrastructure in respect to the Stage 1 Project Application for Kings Forest, with the removal of the recommendation within the report stating "*That the Koala Plan of Management be reviewed to ensure: (1) implementation of a complete ban on dogs within the site; and (2) provision is made to enable additional patrols and compliance by Council Rangers to police the ban*".
2. Advises the Department of Planning of its concerns as identified in the Koala Plan of Management to ensure of the continued healthy existence of koalas and consideration of the threat of residents dogs to the development
3. All dogs must be enclosed in fully fenced and self-closing gated yards.
4. Provision is made to enable additional patrols and compliance by Council Rangers to police the restrictions by a sinking fund provided by the developer, and a differential rate paid by future owners (who own a dog) at the Kings Forest site/development, in perpetuity.
5. The Department of Planning sources a list of dogs that are historically known to be aggressive, predatory by nature and/or have a propensity to dig or tunnel and/or have a propensity to develop a "pack mentality" and that those breeds form a list of banned dogs by way of a s88B instrument at Kings Forest.
6. The Department of Planning gives serious consideration to the fact that an application has been made to list the Tweed Coastal Koala population as "endangered" and that the Tweed Shire Council Draft Comprehensive Koala PoM is due to be placed before the Tweed Coast Koala Advisory Group shortly, and the Australian Federal Parliament Senate Report on Koalas, is also due for release shortly.
7. Regardless of claim at s9.10 of the Kings Forest Stage 1 Project Application Koala Plan of Management all pools and surrounding fencing must be designed in such a way that should any Koala accidentally fall into any pool, provisions are there for the Koala to remove itself by way of steps, ropes and the like, as it is a known fact that Koala's do fall from trees into swimming pools.

## **PROCEDURAL MOTION**

12

**Cr D Holdom**  
**Cr K Skinner**

**RESOLVED** that the Motion be put.

The Motion was **Carried**

**FOR VOTE - Unanimous**



The Amendment 4 was **Carried**

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

The **Amendment 4** on becoming the Motion was **Carried** - (Minute No **13** refers)

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

**13**

**Cr K Skinner**  
**Cr D Holdom**

**RESOLVED** that Standing Orders be resumed to deal with the remaining Agenda items.

The Motion was **Carried**

**FOR VOTE - Unanimous**

## **ORDINARY ITEMS FOR CONSIDERATION**

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

- 6** [PR-CM] Kings Forest Stage 1 Project Application and Amendment 2 to the Concept Plan - Council's Submission to the NSW Department of Planning and Infrastructure

This item was dealt with earlier in the meeting at Minute No **13**.

- 7** [PR-CM] Major Project Development Application DA09/0527 for a 85 Lot Residential Subdivision (MP05\_0198) at Lot 1 DP 134787, Lot 1 DP 167380 and Lot 2 DP 961928 Walmsleys Road and Lot 5 DP 1117326 Stott Street, Bilambil Heights

**14**

**Cr W Polglase**  
**Cr K Skinner**

**RESOLVED** that Council endorses the attached submission to the Department of Planning on the Major Project Application for a 85 lot residential subdivision (MP05\_0198) at Lot 1 DP 134787, Lot 1 DP 167380 and Lot 2 DP 961928 Walmsleys Road and Lot 5 DP 1117326 Stott Street, Bilambil Heights and forwards it to the Coastal Assessment Branch of the Department of Planning.

Cr W Polglase left the meeting at 03:49 PM.

The Motion was **Carried**

**FOR VOTE - Cr D Holdom, Cr P Youngblutt, Cr K Skinner, Cr J van Lieshout, Cr B Longland**  
**AGAINST VOTE - Cr K Milne**  
**ABSENT. DID NOT VOTE - Cr W Polglase**

Cr W Polglase has returned from temporary absence at 03:51 PM

**8 [PR-CM] Class 1 Appeal - Development Application DA10/0295 for a Telecommunications Facility at Lot 7306 DP 1132011; No. 37 Boxsell Road, Limpinwood**

15

**Cr D Holdom**  
**Cr J van Lieshout**

**RESOLVED** that Council, in respect of its decision to refuse Development Application DA10/0295 for a telecommunications facility at Lot 7306 DP 1132011; No. 37 Boxsell Road, Limpinwood, engages its solicitors to defend a related Class 1 appeal lodged by the applicant in the NSW Land and Environment Court.

The Motion was **Carried**

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

**9 [PR-CM] Unauthorised Activity - Poultry Farm at Lot 1 DP 881996 No. 576 Cudgen Road, Cudgen**

16

**Cr K Skinner**  
**Cr K Milne**

**RESOLVED** that Council, in respect of the unauthorised poultry farm and associated sheds on premises known as No. 576 Cudgen Road, Cudgen (Lot 1 DP 881996):

1. Defers contempt of Court proceedings from the recent orders issued in respect of the judgement made by Justice Sheahan in the NSW Land and Environment Court, to provide the owner of the site the opportunity to remove all existing chickens on the site to another suitable location by 5.00pm on 15 February, 2012; and

2. Council officers provide a further report to Council's Meeting of 21 February 2012, informing Council of the progress of the owner's proposed actions, and any subsequent actions required to satisfy the Order referred to in Point 1.

Cr P Youngblutt left the meeting at 03:53 PM

Cr P Youngblutt has returned from temporary absence at 03:54 PM

The Motion was **Carried**

***FOR VOTE - Unanimous***

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

**17**

**Cr K Skinner**

**Cr K Milne**

**RESOLVED** that Council notes the December 2011 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

***FOR VOTE - Unanimous***



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