



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 September 2017

held at **Harvard Room, Tweed Heads Administration Building, Brett Street, Tweed Heads** 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 8.10pm.

IN ATTENDANCE

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

Also present were Mr Michael Chorlton (Acting Director Corporate Services), Mr David Oxenham (Director Engineering), Mr Vince Connell (Director Planning and Regulation for the General Manager), Ms Tracey Stinson (Director Community and Natural Resources), Mr Russ Merry (Acting Public Officer) and Ms Ann Mesic (Minutes Secretary).

APOLOGIES

Attendee **Cr P Allsop** has informed the General Manager that his absence is caused by work commitments.

415

Cr C Cherry
Cr J Owen

RESOLVED that the apology of **Cr P Allsop** be accepted and the necessary leave of absence be granted.

FOR VOTE - Unanimous
ABSENT. DID NOT VOTE - Cr P Allsop

DISCLOSURE OF INTEREST

Nil.

CONFIRMATION OF PLANNING COMMITTEE MINUTES

1 **[CONMIN-CM] Adoption of the Recommendations of the Planning Committee Meeting held Thursday 7 September 2017**

416

Cr C Cherry
Cr J Owen

RESOLVED that the recommendations of the Ordinary Planning Committee Meeting held Thursday 7 September 2017 be adopted.

1 [PR-PC] Development Application DA16/0178 for the Use of Illegal Additions to Two Existing Dwellings and Shed at Lot 2 DP 348945 No. 54 Phillip Street, Chinderah

RECOMMENDED that this item be deferred to provide the proponent 30 days to submit any further required amended plans and technical information.

2 [PR-PC] Development Application DA17/0084 for a Seniors Living (33 Aged Care Residential Rooms and 36 Independent Living Units) at Lots 1, 3 & 4 NPP 271020 Nos. 124-128 Leisure Drive, Banora Point

RECOMMENDED that Development Application DA17/0084 for a Seniors Living (33 Aged Care Residential Rooms and 36 Independent Living Units) at Lots 1, 3 & 4 NPP 271020 Nos. 124-128 Leisure Drive, Banora Point be refused for the following reasons:

1. The amended development application seeks approval to change the internal loop driveway circuit from a two way loop driveway to a single way loop driveway to accommodate additional car parking within the driveway. The proposed development fails to satisfy Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979 as this solution for car parking impacts on the **amenity and safety** of the existing residents by removing half of the width of the only flat exercise circuit that the internal road currently provides. Without the provision of the additional parking being proposed the development represents a reduction of **amenity** for the existing residents in the Retirement village.
2. The amended development application is not considered to be suitable as required by Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979 as the bulk and overshadowing impacts are significant, and the bulk and scale of the development are not in keeping with the **character of** the surrounding development within the Retirement village.
3. The amended development application does not satisfy the **landscaping** provisions under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 when considered over Lot 3 in isolation.
4. The amended development application is not considered to be suitable as required by Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979 as the development represents a reduced **amenity** in terms of the overall provision of landscaped areas to that currently approved.
5. The amended development application is not considered to be suitable as required by Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979 as the development would result in poor **amenity** for future residents in terms of solar access whereby 9 of the 36 independent living units receive no direct sunlight and a further number of

units only receive solar access through skylights (which usually provide diffuse light rather than receive direct sunlight).

6. The amended development application seeks approval for a new building predominantly on Lot 3 with minor alterations to Lot 4. The proposed development fails to adequately supply all required provisions of parking and landscaped within Lot 3 and is not considered to be suitable as required by Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979 as the development would result in a reduced levels of **amenity** for existing residents outside of Lot 3. Lot 3 and Lot 4 are under different ownership and could be sold off separately and therefore Lot 3 should be developed independently of Lot 4.
 7. The proposed development is not considered to be in the **public interest** as required by Section 79C(1)(e) of the Environmental Planning & Assessment Act 1979 as the development will not maintain the current amenity levels advised to clients when they invested in the facility.
 8. The development is considered to be inconsistent with SEPP 65 Design Quality of Residential Flat Development aim (d) as it does not maximise amenity, safety and security for the benefits of its occupants and the wider community.
 9. The development is considered to be inconsistent with SEPP (Housing for Seniors or People with a Disability) 2004 - Clause 33 Neighbouring amenity and Streetscape
 10. The development is considered to be inconsistent with SEPP (Housing for Seniors or People with a Disability) 2004 - Clause 34 Visual and Acoustic Privacy
 11. The development is considered to be inconsistent with SEPP (Housing for Seniors or People with a Disability) 2004 - Clause 35 Solar Access and Design for Climate
 12. The development is considered to be inconsistent with SEPP (Housing for Seniors or People with a Disability) 2004 - Clause 38 Accessibility.
- 3 [PR-PC] Development Application DA17/0102 for a 17 Lot Community Title Subdivision (16 Residential Lots and 1 Community Lot) at Lot 156 DP 628026 No. 40 Creek Street, Hastings Point**

This item was dealt with in Confidential Session (Minute No. PC30 refers)

4 [PR-PC] Development Application DA16/0795 for a Two Lot Subdivision and Dwelling at Lot 7 DP 1178620 No. 2041 Kyogle Road, Terragon

RECOMMENDED that Development Application DA16/0795 for a two lot subdivision at Lot 7 DP 1178620 No. 2041 Kyogle Road, Terragon be deferred for a site inspection and that a report be brought back after the site inspection considering the additional information that has been provided.

5 [PR-PC] Development Application DA04/0162.03 for an Amendment to Development Consent DA04/0162 for Expansion and Amalgamation of Existing Quarries at Lot 28 DP 1079480 Pollards Road, Dulguigan

RECOMMENDED that Development Application DA04/0162.03 for an amendment to Development Consent DA04/0162 for expansion and amalgamation of existing quarries at Lot 28 DP 1079480 Pollards Road, Dulguigan:

1. Be deferred and propose that a workshop is held to address issues and concerns raised by the Tumbulgum Community Association with Council staff, Hy-Tec Industries, available Councillors and the Tumbulgum Community Association to be in attendance.
2. Request that the Tumbulgum Community Association provide their full list of issues and concerns to Council staff and Hy-Tec Industries to allow due consideration to be given to them prior to the meeting.

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

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, in terms of further consideration of DA12/0170 Halcyon House and Paper Daisy Restaurant - Lot 100 DP 1208306 No. 19-25 Cypress Crescent, Cabarita Beach, endorse the following:

The General Manager advises the proponents in writing the following:

1. Council's position is that enabling the motel restaurant to operate for unconstrained general public use would not be substantially the same development as approved and a fresh development application would be required and it is their choice if they wish to remedy the operating terms of the motel;
2. Council does not support intensification of the motel use (accommodation, restaurant and ancillary components) that results in increased demand for on street carparking and/or has the

potential to adversely affect the amenity of the neighbourhood such as from noise and traffic; and

3. Council requires the motel (accommodation, restaurant and ancillary components) to operate in accordance with the development consent as it stands, and any unauthorised use is to cease immediately.
4. Council requires the owners to give an update regarding staff numbers for the whole establishment including the proposed day spa.

7 [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 July 2017 to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

a7 [PR-PC] Draft Kingscliff Locality Plan and Development Control Plan; Clarification on the Purpose and Format or Structure of the Resolved Public Meetings

RECOMMENDED that:

1. The Draft Kingscliff Locality Plan reflect the three storey building character of Kingscliff.
2. Mixed use shop-top housing zones - 12.2 metres with the exception of the identified Marine Parade precinct which will remain at 11.0 metres.
3. Medium density residential only zones - 11.0 metres. A podium no higher than 1.2 metres can be allowed in addition.
4. The consultation Option 1 be adopted with the following change.
 - a. No stakeholders to make presentations. Council staff to provide information on but not limited to the proposed new development footprints, building heights, filling and flooding issues, open space and environmental aspects and road accesses.
 - b. All questions to be limited to three minutes per person/organisation.
 - c. Time frame for meeting be adjusted accordingly.
5. That a report be brought back to Council with all implications of the proposed height changes, prior to public exhibition.

3 [PR-PC] Development Application DA17/0102 for a 17 Lot Community Title Subdivision (16 Residential Lots and 1 Community Lot) at Lot 156 DP 628026 No. 40 Creek Street, Hastings Point

REASON FOR CONFIDENTIALITY:

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:

(e) information that would, if disclosed, prejudice the maintenance of law

RECOMMENDED that in respect of Development Application DA17/0102 for a 17 lot community title subdivision (16 residential lots and 1 community lot) at Lot 156 DP 628026 No. 40 Creek Street, Hastings Point Council supports further negotiating with the applicant in an attempt to resolve the identifiable issues, including but not limited to engineering and ecological, in accordance with the tabled document provided at the meeting.

The Motion was **Carried**

FOR VOTE - Unanimous
ABSENT. DID NOT VOTE - Cr P Allsop

MAYORAL MINUTE

a1 [MM-CM] Mayoral Minutes - Private Native Forestry Hewittville

LATE ITEM

417

Cr K Milne
Cr C Cherry

RESOLVED that Item a1 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

FOR VOTE - Unanimous
ABSENT. DID NOT VOTE - Cr P Allsop

418

Cr K Milne

RESOLVED that Council:

1. Notes the logging operations currently underway at the Hewittville property at Limpinwood.
2. Notes the concerns raised that koalas appear to be potentially affected by the current operations with reports of distress calls and apparent dislocation.
3. Notes the significant environmental and scenic values of the site with its proximity to Mt Warning/Wollumbin, mapping showing predictive aboriginal cultural heritage across most of the site, and serious concerns in regard to road suitability and road safety re truck movements to and from the site.
4. Notes the lack of detailed studies required for forestry licence approvals.
5. Notes previous serious breaches of unauthorised clearing at this property.
6. Undertakes investigation into whether any logging or other inappropriate clearing activity may have occurred in environmental zones that require development consent from Council, and considers use of a drone to assist in this process.
7. Requests the State government halt this operation to:
 - (a) Undertake a comprehensive compliance audit on the current operations in regard to protection of environmental and cultural heritage values,
 - (b) Require a comprehensive report, including on ground field studies, of the environmental and scenic values of this site, and a cultural heritage investigation and cultural heritage management plan to be developed with the local aboriginal community,
 - (c) Require a comprehensive traffic study into the suitability of the road conditions and road safety with this heavy vehicle use, including alternative access along Tyalgum Rd rather than Numinbah Rd.
 - (d) Give serious consideration to revoking this logging licence or otherwise ending this logging operation due to the inappropriate nature of logging activity in such a significant Mt Warning/Wollumbin regional wildlife corridor and koala habitat, mapped predictive cultural heritage areas, and concerns for road suitability and road safety.

The Motion was **Carried**

FOR VOTE - Unanimous

ABSENT. DID NOT VOTE - Cr P Allsop

ADJOURNMENT OF MEETING

Adjournment for dinner at 7.10 pm.

RESUMPTION OF MEETING

The Meeting resumed at 7.54 pm

ORDERS OF THE DAY

2 [NOM] Bray Park Weir

NOTICE OF MOTION:

419

**Cr J Owen
Cr W Polglase**

RESOLVED that due to the recent salt water inundation at the Bray Park Weir, a report is prepared after consultation with key stakeholders on the options and technical requirements to prevent salty water from entering the Tweed water supply in future.

The Motion was **Carried**

***FOR VOTE - Unanimous
ABSENT. DID NOT VOTE - Cr P Allsop***

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

3 [CNR-CM] Communications Tower - Casuarina Sports Fields

420

**Cr J Owen
Cr W Polglase**

RESOLVED that:

1. Council approves entering into a lease for a portion of Lot 10 DP 1014470 with Optus for the purposes of installing telecommunications equipment.

2. The lease documents be executed under the Common Seal of Council.

The Motion was **Carried**

FOR VOTE - Unanimous

ABSENT. DID NOT VOTE - Cr P Allsop

There being no further business the Meeting terminated at 8.20pm



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

Chairman