

Mayor: Cr Warren Polglase

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



Minutes

Planning and Regulation Ordinary Council Meeting Tuesday 16 March 2010

held at Murwillumbah Cultural & Civic Centre
commencing at 4.30pm

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 4.30pm.

IN ATTENDANCE

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

Also present were Mr Vince Connell (Acting General Manager), Mr Troy Green (Director Technology & Corporate Services), Mr Patrick Knight (Director Engineering & Operations), Mr Lindsay McGavin (Acting Director Planning & Regulation), Mr David Oxenham (Director Community & Natural Resources), Mr Neil Baldwin (Manager Corporate Governance/Public Officer) and Mrs Kerrie McConnell (Minutes Secretary).

MAYORAL MINUTE

a4 [MM-CM] Draft Tweed Local Environmental Plan 2010 and Draft Tweed City Centre Local Environmental Plan 2009

LATE ITEM

123

**Cr K Skinner
Cr K Milne**

RESOLVED that Item a4 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

124

**Cr W Polglase
Cr J van Lieshout**

RESOLVED that the public exhibition period inviting submissions on the Draft Tweed Local Environmental Plan 2010 and Draft Tweed City Centre Local Environmental Plan 2009 (incorporating a new Development control Plan and Vision Statement) be extended until Friday 30 April 2010 and this extension be suitably advertised.

The Motion was **Carried**

FOR VOTE - Unanimous

[MM-CM] - Draft Tweed Local Environmental Plan 2010 and Draft Tweed City Centre Local Environmental Plan 2009

SUSPENSION OF STANDING ORDERS

125

**Cr W Polglase
Cr D Holdom**

RESOLVED that Standing Orders be suspended to deal with Items 16, 52 and 53 of the Agenda.

The Motion was **Carried**

FOR VOTE - Unanimous

REPORT FROM THE ACTING DIRECTOR PLANNING AND REGULATION

16 **[PR-CM] Cobaki Lakes Project Application - Central Open Space and Lake - Council Submission to the Department of Planning**

126

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council endorses the attached draft submission to this report on the Project Application for the Cobaki Lakes central lakes and open space area and it be forwarded to the NSW Department of Planning.

127

AMENDMENT

**Cr K Milne
Cr B Longland**

PROPOSED that Council:

1. Endorses the attached draft submission to this report on the Project Application for the Cobaki Lakes central lakes and open space area and it be forwarded to the NSW Department of Planning.
2. Writes to the State Government to express objection to the expectation that this Project application be assessed prior to previous issues being resolved and without a Masterplan in place to guide the vision for this site.
3. Has a strong desire for an independent expert review to provide for leading worlds best practice, water sensitive urban design in these highly sensitive

Cobaki Broadwater environments that are currently subject to significant degradation concerns.

4. Has a strong desire to improve its open space provisions and strongly requests that an independent review be undertaken of the adequacy of open space provision, location and accessibility, type and design.
4. Requests before any approvals are given the Department are requested to conduct further consultation with Tweed Shire Council in regard to upgrading sustainable outcomes in social, economic and environment.

The Amendment was **Lost**

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

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

The Motion was **Carried** – (Minute No 126 refers)

FOR VOTE - Unanimous

ORDERS OF THE DAY

52 [NOR-Crs K Skinner, W Polglase, D Holdom] [PR-CM] Development Codes for Cobaki Lakes Concept Plan and Kings Forest Concept Plan - Residential Community Development - Council Submission to the Department of Planning

128

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that the following section of resolution at Item 17, Minute No 75, from the meeting held 16 February 2010 being:

.... that: -

1. *Council:-*

2. Requests the State government require an independent review of the proposals for Cobaki Lakes and Kings Forest developments in regard to outcomes for

- a) sustainability,*
 - b) urban design,*
 - c) employment,*
 - d) social planning (especially for youth and ageing populations),*
 - e) Indigenous cultural heritage,*
 - f) open space,*
 - g) environment,*
-

- h) water and sewerage outcomes,*
- i) or any other relevant issues,*

and recommendations to enhance these outcomes.

This review to be undertaken by an appropriate organisation, such as the Institute of Sustainable Futures, University of Technology Sydney.

- 2. The General Manager writes to the Department of Planning and request an extension of time for lodgement of a submission on the current project application for the central lakes at Cobaki Lakes, until 17 March 2010*
- 3. ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*
- 4. Council writes to the Minister of Planning NSW requesting that, before any approvals are given, the Department be requested to conduct further consultation to familiarise Tweed residents with the new housing types as proposed.*
- 5. Council provides a report to the next Council meeting:*
 - a) Detailing the amounts and totals collectable from the Developer contributions plans applicable to these developments, and*
 - b) The ability of Council to meet current and projected costs associated at the various stages of these new developments, including but not limited to infrastructure costs, community facilities and bushland restoration.*
- 6. This report to include the various methods of addressing any gaps or shortfalls envisaged in the planning of these developments such as through enhancing the s94 developer contributions or establishing Voluntary Planning agreements for Cobaki Lakes and Kings Forest Greenfield sites to address these issues.*
- 7. Council writes to the NSW Department of Planning to request special consideration due to review these issues.*

be rescinded.

The Rescission Motion was **Carried**

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

53 [NOM-D Holdom] [PR-CM] Development Codes for Cobaki Lakes Concept Plan and Kings Forest Concept Plan – Residential Community Development – Council Submission to the Department of Planning

129

Cr D Holdom

Cr P Youngblutt

RESOLVED that:

1. The Minister for Planning gives consideration to requesting from the proponent of Cobaki Lakes and Kings Forest to submit to the Department a detailed Masterplan and its objectives to guide the future redevelopment on these major development applications, and
2. That the Minister for Planning gives consideration to referring the Cobaki Lakes and Kings Forest developments to the Independent Hearing and Assessment Panel (IHAP) for their review, before any determination of the proposals for these sites.

130

AMENDMENT

Cr K Milne

Cr B Longland

PROPOSED that Council writes to the State Government to inform them that:

1. Councillors strongly support the Council officers' need for the development to provide a Masterplan prior to approvals being granted.
2. Council and the Tweed Shire community are very concerned at the apparent lack of uptake of Council's previous submissions and the requirement that subsequent stages be considered prior to these issues being resolved.
3. Council strongly suggests the State Government enlist an independent expert review to provide for peer review of these large and complex developments to provide for leading worlds best practice that is essential with the pressures that will ensue from population increases exacerbated by the sea change phenomena.

Council requests the State government require an independent review of the proposals for Cobaki Lakes and Kings Forest developments in regard to outcomes for:

- a) sustainable urban design, energy efficiency and public transport
- b) climate change and sea level rise response, including filling issues and risk management,
- c) employment opportunities and encouragement of a green economy,
- d) social planning (especially for youth and ageing populations),
- e) Indigenous cultural heritage,
- f) open space,
- g) environment, especially Koala, Potorroo and waterways issues
- h) water sensitive urban design, sustainable water use, sewerage and waste management,
- i) food security,

- k) section 94 developer contributions plans,
- l) any other relevant issues that arise.

And recommendations to enhance these outcomes.

This review to be undertaken by an appropriate organisation, such as the Institute of Sustainable Futures, University of Technology Sydney, and include consideration of the new Positive Impact Development Theory (see Pr Janis Birkeland, University of Technology Brisbane), as well review from an appropriate social planning organisation such as the Social Justice Advocacy Network.

- 4. Council is opposed to the size of the small lots, ie small lots are considered to be minimum 300 square metres, not the 120sq metres proposed and may be appropriate for inner city and infill locations, where access to services is available, but not in sensitive locations such as these sites.

Any small lot development considered must have a specific plan at the appropriate stage prior to subdivision stage to provide better planning outcomes and not just be allowed on an ad hoc basis as proposed.

- 5. Council provides a report to the next Council meeting:
 - a) Detailing the amounts and totals collectable from the Developer contributions plans applicable to these developments, and
 - b) The ability of Council to meet current and projected costs associated at the various stages of these new developments, including but not limited to infrastructure costs, community facilities and bushland restoration.
- 6. This report to include the various methods of addressing any gaps or shortfalls envisaged in the planning of these developments such as through enhancing the s94 developer contributions or establishing Voluntary Planning agreements for Cobaki Lakes and Kings Forest Greenfield sites to address these issues.
- 7. Council writes to the NSW Department of Planning to request special consideration due to review these issues.
- 8. Council commits to undertaking such a review if the State Government declines.

The Amendment was **Lost**

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

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

The Motion was **Carried** – (Minute No 129 refers)

FOR VOTE - Unanimous

RESUMPTION OF STANDING ORDERS

131

Cr W Polglase
Cr P Youngblutt

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE ACTING GENERAL MANAGER

REPORTS FROM THE ACTING DIRECTOR PLANNING AND REGULATION

11 [PR-CM] Development Application DA08/1056 for a Conversion of an Existing Farm Shed to Rural Workers Dwelling at Lot 1 DP 803636, No. 9 Sanderson Place, Dungay

139

Cr D Holdom
Cr B Longland

PROPOSED that: -

- A. Development Application DA08/1056 for the conversion of an existing farm shed to rural workers dwelling at Lot 1 DP 803636, No. 9 Sanderson Place, Dungay be refused for the following reasons:
 - 1. The Department of Planning has not issued concurrence.
 - 2. The proposed land use does not comply with the 40 hectare minimum development standard contained within Clause 18(3) of the Tweed LEP 2000.
 - 3. The SEPP 1 objection has not demonstrated that the development standard is unnecessary and unreasonable.
- B. Council engages it's Solicitors to commence legal proceedings (for a breach of the Environmental Planning and Assessment Act 1979) in respect of the unauthorised works at Lot 1 DP 803636, No. 9 Sanderson Place, Dungay, and seek reinstatement of the use as farm shed as part of the legal proceedings.

140

AMENDMENT

**Cr J van Lieshout
Cr W Polglase**

RESOLVED that this item be deferred to allow for a workshop prior to being presented to another Council meeting.

The Amendment on becoming the Motion was **Carried** - (Minute No 140 refers)

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

The Motion was **Carried**

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

12 **[PR-CM] Development Application DA09/0468 for a Staged Two (2) Lot
Subdivision at Lot 6 DP 524303, No. 26 George Street, Murwillumbah**

141

**Cr D Holdom
Cr K Skinner**

RESOLVED that this item be deferred to enable clarification with the applicant regarding the extent of the proposed cut and fill works.

The Motion was **Carried**

FOR VOTE - Unanimous

13 **[PR-CM] Development Application DA09/0722 for a Dwelling, Swimming
Pool and Spa at Lot 31 DP 1030322, Collins Lane, Casuarina**

142

**Cr D Holdom
Cr K Skinner**

RESOLVED that: -

- A. State Environmental Planning Policy No. 1 objection to Clause 32B of the North Coast Regional Environmental Plan regarding overshadowing be supported and the concurrence of the Director-General of the Department of Planning be assumed.

- B. Development Application DA09/0722 for a dwelling swimming pool & spa at Lot 31 DP 1030322, Collins Lane Casuarina be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.

[GEN0015]

2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0115]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

3. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

4. Stormwater

- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.
- (b) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
- (c) The infiltration rate for sizing infiltration devices shall be 3m per day:
 - * As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
- (d) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
- (e) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
- (f) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).

- (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (h) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- (i) All infiltration devices are to be designed to allow for construction and operation vehicular loading.
- (j) All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

5. A construction certificate application for works that involve any of the following:-

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under S68 of the Local Government Act.

- a) Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
- b) Where Council is requested to issue a construction certificate for civil works associated with a subdivision consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

[PCC1145]

6. The level of the swimming pool coping is to be clearly shown on the plans to be not greater than RL 7500.

[PCCNS01]

7. Prior to the issue of a Construction Certificate amended plans are to be submitted to and approved by Council which amend the position of the external wall of the garage to stand not less than 450mm from the southern side boundary.

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

8. The erection of a building in accordance with a development consent must not be commenced until:
- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and

- (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

9. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

10. Residential building work:

- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - * in the name and licence number of the principal contractor, and
 - * the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - * the name of the owner-builder, and
 - * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to

which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

11. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:-
 - (a) a standard flushing toilet connected to a public sewer, or
 - (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

12. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

13. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

This sign is to remain in position for the duration of the project.

[PCW0985]

14. All roof waters are to be disposed of through properly jointed pipes to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2.

[PCW1005]

DURING CONSTRUCTION

15. Construction and/or demolition site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

16. The roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of buildings with direct line of sight to the proposed building.

[DUR0245]

17. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

18. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

19. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

20. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.

[DUR0415]

21. The finished floor level of the building should finish not less than 225mm above finished ground level.

[DUR0445]

22. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.

[DUR0905]

23. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- dust during filling operations and also from construction vehicles
- material removed from the site by wind

[DUR1005]

24. Zone Boundary

- (a) No construction work other than 1.2m high fencing is to be carried out in the 7(f) zone.
- (b) The 7(f) and 2(e) zone boundary is to be clearly identified on site by Registered Surveyor marks prior to start of work.
- (c) No overflow from an infiltration pit shall be discharged over the eastern boundary.

[DUR1035]

25. All landscaping is to comply with the 88B Instrument pertaining to the site.

[DUR1055]

26. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the 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.

[DUR1875]

27. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.

[DUR1945]

28. Swimming Pools (Building)

- (a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 – 2007 & AS 1926.3 - 2003. (Refer Council's web site www.tweed.nsw.gov.au)
- (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.

[DUR2075]

29. Backwash from the swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.

[DUR2085]

30. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction/demolition.

[DUR2185]

31. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

- (a) internal drainage, prior to slab preparation;
- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- (c) external drainage prior to backfilling.

(d) completion of work and prior to occupation of the building.

[DUR2485]

32. Plumbing

(a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.

(b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.

[DUR2495]

33. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.

[DUR2515]

34. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

[DUR2545]

35. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-

* 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and

* 50°C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR2555]

36. Sewer connections within the 7(f) zone are to comply with the following:-

(a) Two inspection shafts shall be provided to each lot. The first shall be provided immediately adjacent to the connection point provided by the developer. The second inspection shaft at 0.5 metres inside the 2(e) zone boundary on each property. Inspection shafts are to be finished at surface level with a standard bolted trap screw cap and concrete surround.

(b) Pipe work size for all lots under this approval are to have a 100mm diameter sewer.

[[DUR2695]

37. No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main.

[DUR2705]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

38. 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 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

39. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

The street number is to be on a white reflective background professionally painted in black numbers 100mm high.

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0265]

40. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

USE

41. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.

[USE0175]

42. The building is to be used for single dwelling purposes only.

[USE0505]

43. Swimming Pools (Building)

(a) It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).

(b) The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).

(c) Warning notices required under Part 3 of the Swimming Pool Regulations 2008 shall be maintained at all times.

[USE1295]

The Motion was **Carried**

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

SUSPENSION OF STANDING ORDERS

143

Cr W Polglase
Cr K Skinner

RESOLVED that Standing Orders be suspended to deal with Items 15 and 21 of the Agenda.

The Motion was **Carried**

FOR VOTE - Unanimous

15 [PR-CM] Development Application DA05/0223.07 for an Amendment to Development Consent DA05/0223 for a Restaurant at Lot 1 DP 553728, No. 4 Wharf Street, Tweed Heads

144

Cr D Holdom
Cr B Longland

PROPOSED that: -

- A. Council refuses Development Application DA05/0223.07 for an amendment to Development Consent DA05/0223 for a restaurant at Lot 1 DP 553728, No. 4 Wharf Street, Tweed Heads for the following reasons: -
1. The proposed development is contrary to Clause 8(1) of Tweed Local Environmental Plan 2000, relating to not providing applicable or sufficient information for the application to be assessed against: the objectives of the zone; the aims and objectives of any other relevant clause; and to determine whether the development would have an unacceptable cumulative impact on the community.
 2. Amended plans have not been provided to adequately demonstrate that the development complies with all relevant Development Control Plans.
 3. The proposed development is not considered to be in the public interest.
- B. Council re-initiates legal action through Council's Solicitor's in relation to unauthorised building works and modification of trading hours.

C. Council notes that ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2)(a) of the Local Government Act 1993, because it contains:-

(a) *personnel matters concerning particular individuals (other than councillors)*

145

AMENDMENT

**Cr K Skinner
Cr P Youngblutt**

RESOLVED that this item be deferred.

The Amendment on becoming the Motion was **Carried** - (Minute No 145 refers)

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

The Motion was **Carried**

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

21 [PR-CM] Beach Vehicle Policy Review

146

**Cr K Skinner
Cr P Youngblutt**

RESOLVED that Council in terms of the adopted Beach Vehicle Policy:-

1. Maintains current time restrictions;
2. Maintains current fees associated with Beach Vehicle Permits; and
3. Supports the request made by the Ecofishers Tweed Branch to approach the Department of Environment, Climate Change and Water regarding amending their Plan of Management for Coastal Nature Reserves, enabling access to Beach Vehicle Permit Holders.

The Motion was **Carried**

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

RESUMPTION OF STANDING ORDERS

147

Cr W Polglase
Cr B Longland

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

ADJOURNMENT OF MEETING

Adjournment for dinner at 6.37pm.

RESUMPTION OF MEETING

The Meeting resumed at 7.30pm.

- 14 **[PR-CM] Development Application DA09/0199 for a Depot Permitting only the Parking of 3 Trucks and 3 'Dog' Trailers at Lot 2 DP 873149, No. 233 Round Mountain Road, Round Mountain**

148

Cr D Holdom
Cr P Youngblutt

RESOLVED that Development Application DA09/0199 for a Depot Permitting only the Parking of 3 Trucks and 3 'Dog' Trailers at Lot 2 DP 873149, No. 233 Round Mountain Road, Round Mountain be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan 'Site Plan' dated NOV 02 drawn by 'Ace Homes', (as amended in Red on the approved plan) except where varied by the conditions of this consent.
[GEN0005]
2. The driveway is to be bitumen sealed from the edge of the bitumen of the existing road to include the access driveway up to and including the truck turn around and parking area. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on the road reserve. Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee and approved prior to the use of the site as a depot.
[GEN0245]

3. No trees are to be removed from the site, pruned or damaged to facilitate the establishment and operation of the depot.

[GENNS01]

4. A maximum of 12 trips per week in total are permitted each week (one truck leaving and entering the site is counted as two trips). In this regard, the owner of the business is to maintain a daily log of trips made from the site. The log is to be made available to the General Manager or delegate upon request.

[GENNS02]

5. This consent restricts a maximum of 3 trucks and a maximum of 3 dog trailers are to be stored at the premise.

[GENNS03]

6. All conditions are to be complied with prior to the commencement of use, where required.

[GENNS04]

DURING CONSTRUCTION

7. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- dust during filling operations and also from construction vehicles
- material removed from the site by wind

[DUR1005]

8. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]

9. Acid sulphate soils shall not be exposed or disturbed.

10. All landscaping work is to be completed in accordance with the approved plans prior to commencement of use.

[POC0475]

11. All existing essential fire safety measures are to be certified by a qualified person to the effect that each of the fire safety measures has been assessed and were found to be performing to a standard not less than that to which it was originally designed prior to the commencement of use.

[POC0525]

12. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan, prior to the commencement of use.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, the commencement of use of the land as a depot shall NOT occur 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:

1.71 Trips @ \$1125 per Trips \$1924

(\$1022 base rate + \$103 indexation)

S94 Plan No. 4

Sector8_4

(b) Extensions to Council Administration Offices
& Technical Support Facilities

0.216688 ET @ \$1759.9 per ET \$381.35

(\$1759.9 base rate + \$0 indexation)

S94 Plan No. 18

[PCC0215/PSC0175]

13. A detailed plan of landscaping by a suitably qualified person, in accordance with Planning for Bushfire Protection 2006, containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species, is to be submitted and approved by Council's General Manager or his delegate prior to the commencement of use of the land as a depot.

A detailed plant schedule and plan at a scale of 1:100 to 1:500 indicating the location of all proposed planting and any existing vegetation to be retained on and adjacent to the site and including:

- species listed by botanical and common names, with a minimum of 80% of plants constituting local native species;
- specific location, planting densities and quantities of each species; pot sizes; the estimated sizes of the plants at maturity, and proposed staking methods, if applicable.

The landscape plan is to provide visual screening of the depot from the road users and neighbouring residents.

[POCNS02]

14. The stopping of the subject trucks on Round Mountain Road, when entering the site is prohibited.

[POCNS03]

USE

15. 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]

16. Except as may be expressly provided in a licence approval under the Protection of the Environment Operations Act 1997 (POEO) Act, the licence holder must comply with section 120 of the POEO Act 1997 prohibiting the pollution of waters.
[USE0155]
17. Hours of operation of the business are restricted to the following hours: -
- * 6.00am to 6.00pm - Mondays to Saturdays
 - * No operations are to be carried out on Sundays or Public Holidays.
- The subject trucks are not to start before 6.00am and are not to be running after 6.00pm.
[USE0185]
18. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.
[USE0225]
19. Any vehicles that remain on site for periods in excess of two (2) minutes are required to switch off their engines.
[USE0255]
20. All commercial / industrial / residential wastes shall be collected, stored and disposed of in accordance with any approved Waste Management Plan or to the satisfaction of the General Manager or his delegate.
[USE0875]
21. The premises shall be maintained in a clean and tidy manner.
[USE0965]
22. Petroleum, fuels, oils or other potentially hazardous materials shall not be stored at the premise in association with the depot.
[USENS01]
23. The depot shall not be utilised for mechanical repairs or servicing of vehicles.
[USENS02]
24. The LAeq(15min) noise level emitted from any activity undertaken in association with this consent shall not exceed the background noise level (LA90) by more than 5dBA at the boundary of any effected residence during the permitted hours of operation. Further, the LA1(60 seconds) noise level shall not exceed the background noise level by more than 15dB(A) during the hours of 6am to 7am Monday to Friday and 6am to 8am Saturday when measured outside the bedroom window of any affected residence.
[USENS03]
25. Accumulation or storage of materials ancillary to the depot is not permitted.
[USENS04]
26. No canines are permitted to be kept on the site for security purposes associated with the depot.
27. Before and after photographs are to be submitted to Council of all landscaping required by Condition 13 including a report prepared by a qualified and experienced horticulturist detailing the condition of the plantings and

management actions where required, no more than six months after the completion of the landscaping.

The Motion was **Carried**

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

15 [PR-CM] Development Application DA05/0223.07 for an Amendment to Development Consent DA05/0223 for a Restaurant at Lot 1 DP 553728, No. 4 Wharf Street, Tweed Heads

This item was dealt with at Minute No 144.

16 [PR-CM] Cobaki Lakes Project Application - Central Open Space and Lake - Council Submission to the Department of Planning

This item was dealt with at Minute No 126.

17 [PR-CM] Proposed Amendments to Tweed Development Control Plan Notification Requirements for Development Applications Affecting Caravan Parks and Manufactured Home Estates

149

Cr D Holdom
Cr B Longland

RESOLVED that Council endorses the public exhibition of an amendment to clause A11.2.1 of Section A11 of Tweed Development Control Plan 2008 for a period of 28 days, in accordance with the Environmental Planning and Assessment Act and Regulations, through the insertion of the following:

Caravan Parks and Manufactured Home Estates

Permanent occupiers of caravan parks and manufactured home estates sites are to be notified in the same way as landowners are notified as set out in clause A11.2.1 Who is to be notified? (affected owners). In this regard individual sites occupiers are to be notified by mail identified by Council's copy of the community map for each caravan park or manufactured home estate.

The Motion was **Carried**

FOR VOTE - Unanimous

- 18 **[PR-CM] Results of Recent Legal Determinations for Development Application DA06/0413 for a Staged Seniors Living Development under SEPP (Seniors Living) 2004 Comprising 91 Independent Living Units, 94 Supported Living Units and 67 Beds within a High Care**

150

Cr K Skinner
Cr P Youngblutt

RESOLVED that the report on the recent legal determinations for Development Application DA06/0413 for a Staged Seniors Living Development under SEPP (Seniors Living) 2004 Comprising 91 Independent Living Units, 94 Supported Living Units and 67 Beds within a High Care Facility at Lot 1 DP 786570, No. 87-89 Tweed Coast Road, Hastings Point be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

- 19 **[PR-CM] Vegetation Clearing at Lot 4 DP 1106447 Tweed Coast Road, Chinderah**

151

Cr D Holdom
Cr B Longland

RESOLVED that a Penalty Infringement Notice (PIN) be issued to the owner of Lot 4 DP 1106447 Tweed Coast Road, Chinderah for a breach of Council's Tree Preservation Orders.

The Motion was **Carried**

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

- 20 **[PR-CM] Companion Animals Management Plan**

152

Cr B Longland
Cr D Holdom

RESOLVED that Council adopts the final Companion Animals Management Plan referred to and attached to this report.

153

AMENDMENT

**Cr K Milne
Cr J van Lieshout**

PROPOSED that Council puts forward a report that considers the provision of appropriate and dedicated off leash exercise areas, dog litter bins and drinking facilities and an appropriate S94, if possible.

The Amendment was **Lost**

FOR VOTE - Cr K Milne, Cr J van Lieshout

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

The Motion was **Carried** – (Minute No 152 refers)

FOR VOTE - Unanimous

21 [PR-CM] Beach Vehicle Policy Review

This item was dealt with at Minute No 146.

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

154

**Cr K Skinner
Cr J van Lieshout**

RESOLVED that Council notes the February 2010 Variations to Development Standards under State Environmental Planning Policy No 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

23 [PR-CM] Results of the Department of Planning's Local Development Performance Monitoring Report 2008/09

155

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that the report on the results of the Department of Planning's Local Development Performance Monitoring Report 2008/09 be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

a23 [PR-CM] Asbestos Management Policy - Version 1.0

LATE ITEM

156

Cr K Skinner

Cr P Youngblutt

RESOLVED that Item 23a 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

157

Cr K Skinner

Cr P Youngblutt

RESOLVED that:

1. The draft Asbestos Management Policy Version 1.0 be exhibited for a period of 28 days in accordance with Section 160 (2) of the Local Government Act 1993.
2. A further report is presented to Council, which is to include any submissions made, following the exhibition period.

The Motion was **Carried**

FOR VOTE - Unanimous