



**MINUTES
PLANNING & REGULATION
ORDINARY COUNCIL MEETING
Tuesday 18 August 2009**

Mayor: Cr J van Lieshout

Councillors: Cr B Longland, Deputy Mayor
Cr D Holdom
Cr K Milne
Cr W Polglase
Cr K Skinner
Cr P Youngblutt

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.

IN ATTENDANCE

Cr Joan van Lieshout (Mayor), Cr Barry Longland (Deputy Mayor), Cr Dot Holdom, Cr Katie Milne, Cr Warren Polglase, Cr Kevin Skinner, Cr Phil Youngblutt.

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

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING & REGULATION

- 10 **[PR-CM] Development Application DA08/1216 for a Dwelling & Demolition of Existing Dwelling at Lot 2 DP 501165 No. 10a Boomerang Street, Kingscliff**

178

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that:-

1. Development Application DA08/1216 for a dwelling and demolition of existing dwelling at Lot 2 DP 501165, No 10a Boomerang Street, Kingscliff be deferred to allow for further consultation with the applicants and Council Officers including the Director of Planning, on the bulk and scale of the proposed new building.
2. A further report be presented to the next Council meeting as a result of this consultation.

The Motion was **Carried**

FOR VOTE - Unanimous

- 11 [PR-CM] Development Application DA09/0139 for Construction of a Carport for Four (4) Cars at Existing Retirement Village at Lot 214, 215, 216 DP 251004, No. 1-5 Tupia Avenue, Tweed Heads

DECLARATION OF INTEREST

Cr B Longland declared an Interest in this item, left the Chamber at 05:14 PM and took no part in the discussion or voting. The nature of the interest is that Cr B Longland advised that a Community Access speaker on this item was involved in his political campaign.

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Cr W Polglase
Cr D Holdom

RESOLVED that with regard to Development Application DA09/0139 for construction of a carport for four (4) cars at an existing retirement village at Lot 214, 215, 216 DP 251004, Nos. 1-5 Tupia Avenue, Tweed Heads Council requests amended plans demonstrating compliance with all matters raised within this report.

The Motion was **Carried**

FOR VOTE - Voting - Unanimous
ABSENT. DID NOT VOTE - Cr B Longland

RETURN TO MEETING

Cr B Longland has returned from temporary absence at 05:20 PM

- 12 [PR-CM] Development Application DA08/0755 for a 24 Lot Subdivision (18 lots into 24) at Lots 1-18 Section 4 DP 14895, Casuarina Way, Kingscliff

180

Cr D Holdom
Cr P Youngblutt

RESOLVED that Council defends the Class 1 Appeal (as necessary) for Development Application DA08/0755 for a 24 lot subdivision (18 lots into 24) at Lots 1-18 Section 4 DP 14895 Casuarina Way, Kingscliff.

The Motion was **Carried**

FOR VOTE - Unanimous

13 [PR-CM] Development Application 1039/2001DA.02 for an Amendment to Development Consent 1039/2001DA for Commercial Boating Operations (Southern Boat Harbour) at Tweed River, Tweed Heads

181

**Cr W Polglase
Cr J van Lieshout**

RESOLVED that with regard to Development Application 1039/2001DA.02 for an amendment to Development Consent 1039/2001DA for commercial boating operations (Southern Boat Harbour) at Tweed River, Tweed Heads that this item be deferred to allow for further consideration of conditions.

FOR VOTE - Unanimous

182

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that with regard to Development Application 1039/2001DA.02 for an amendment to Development Consent 1039/2001DA for commercial boating operations (Southern Boat Harbour) at Tweed River, Tweed Heads Council approves the proposal subject to a trial period (12 months) and appropriate conditions of consent are provided to the applicant from the Director Planning and Regulation.

Conditions of Consent

1. Delete Condition No. 1 and replace it with Condition No. 1A which reads as follows:
 - 1A. The development shall be completed in general accordance with the Statement of Environmental Effects and Local Environmental Plan extract map 1, undated, Site Plan undated and the Statement of Environmental Effects and the site plan prepared by Tweed Endeavour Cruises and dated 20 May 2009 (as amended in red), except where varied by the conditions of this consent.
2. Add a new heading under existing Condition No. 2 which reads as follows:

GENERAL for shooting activity
3. Add the following new conditions under the new heading "GENERAL for shooting activity" which read as follows:
 - 2.1 Prior to the commencement of the activity, the applicant shall liaise with the Civic Aviation Safety Authority (CASA). The applicant shall provide

formal documentation to Council demonstrating approval has been obtained from CASA.

- 2.2 The infra-red target shooting activity shall be limited to the three sites as indicated on the site plan, being a site opposite Dry Dock Road on western side of Pacific Highway and two sites opposite Sunset Boulevard near Davey's Island. The applicant shall anchor west of Blue Waters Crescent when the Dry Dock Road site is used.
- 2.3 Feeding of wildlife is not to be undertaken from the boat at any time.
- 2.4 Only sequentially numbered discs are to be used as targets and all targets retrieved on each occasion. A stock-take shall be undertaken by the boat operator to ensure that all numbered discs are retrieved.

If any targets are missing a thorough search of the site and surrounds must be undertaken to retrieve any missing discs. Any instances where a disc has not been retrieved shall be recorded. A monthly report must be submitted to the Director Planning and Regulation or delegate, detailing all tours conducted and compliance with this condition.

- 2.5 The boat motor, generator and stereo must to be turned off when target shooting occurs.
 - 2.6 Targets are to be shot only upstream from the anchoring site adjacent the Pacific Highway bridge (Dry Dock Road site) and anchoring must be west of Blue Waters Crescent as a minimum.
 - 2.7 Targets must be launched over open water to a maximum distance of 20m and must not be directed toward the shoreline at any time. Targets must not be launched until a person responsible for target collection is in place and ready to retrieve the target.
 - 2.8 No access to adjacent islands forming part of the Tweed Estuary Nature Reserve is authorised by this consent. No access is permitted without a licence from Department of Environment and Climate Change.
4. Add a new heading under existing Condition No. 19 which reads as follows:

USE for shooting activity
 5. Add the following new conditions under the new heading "USE for shooting activity" which read as follows:
 - 19.1 Targets shall be fluorescent coloured and shall float.
 - 19.2 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.
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- 19.3 Hours of operation of the shooting activity are restricted to the following hours: -
- 2 hours following sunrise until 2 hours prior to sunset, being full daylight hours only.
- 19.4 Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer
- 19.5 Patrons shall be transported to the site via courtesy buses and the like where possible.
- 19.6 The sale or consumption of alcohol is not permitted whilst firearms are on board the vessel. Clear signage shall be displayed also advising of this.
- 19.7 Firearms shall not be stored on the vessel outside of the authorised hours of operation.
- 19.8 Signage visible from a distance of at least 100m shall be displayed on a minimum of both sides of the vessel whilst the activity takes place. The signage shall include the word 'infra-red' (at least 300mm in height) and to indicate the type of activity taking place. The signage shall include a telephone number to allow members of the public a contact opportunity prior to contacting emergency services or other government organisations. The telephone number shall be that for the Captain of the vessel or to a person in charge of the activity on board the vessel.
- 19.9 Prior to the initial commencement of the activity, the applicant shall arrange a notice within the Tweed Link and other media deemed appropriate by the General Manager or delegate to advise residence of the nature of the activity. The information shall include the nominated site areas of the activity and contact number/s of the organisation. The applicant shall provide documentary evidence to the General Manager demonstrating this has occurred.

The Motion was **Carried**

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

14 [PR-CM] World Rally Championships**183****Cr P Youngblutt****Cr K Skinner**

PROPOSED that the report on the World Rally Championships be received and noted.

AMENDMENT**184****Cr J van Lieshout****Cr K Skinner**

RESOLVED that:-

1. The report of the World Rally Championships be received and noted.
2. At this late stage that Council takes a cohesive stand in support of the upcoming Repco Rally event in order to show respect to the many officials and volunteers in both the State and Local Community who have been involved in the extensive process which has shown a high degree of professionalism in various areas of staging the event.

Council reserves the right to a full review following the event where it would be most appropriate and more beneficial to address the many concerns and desires of the community in respect of the future of the Rally.

The Amendment was **Carried**

FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr W Polglase, Cr J van Lieshout

AGAINST VOTE - Cr D Holdom, Cr B Longland, Cr K Milne

The Amendment on becoming the Motion was **Carried** - (Minute No 184 refers)

FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr W Polglase, Cr J van Lieshout

AGAINST VOTE - Cr D Holdom, Cr B Longland, Cr K Milne

15 **[PR-CM] State Significant Site Application - West Kingscliff (Gales Holdings Land)**

185

Cr W Polglase
Cr K Skinner

RESOLVED that Council formally advises the Department of Planning that the Gales Holdings State Significant Site Application (Reference No. S07/01166) is withdrawn and no further action is required from the Department of Planning.

The Motion was **Carried**

FOR VOTE - Unanimous

16 **[PR-CM] Update on Compliance Issues - Lot 11 DP 835413, No. 2 Boulder Close, Byangum**

186

Cr D Holdom
Cr K Skinner

PROPOSED that in respect of the existing agricultural operations at Lot 11 DP 835413 No. 2 Boulder Close, Byangum:

1. Council receives and notes this report;
2. Council endorses a proposal to seek written agreement from the owners of Lots 11 (No 2) and 4 Boulder Close, for the owners of Lot 4 Boulder Close to repair the existing electric fence adjacent to the common boundary with Lot 11 (thereby restricting the movement of their horses), and that a planting regime be undertaken by the owners along the entire length of their site's eastern boundary to provide a reasonable degree of screening of existing hot house and temporary structures, subject to prior consultation with Council's ecologist, and completion to the satisfaction of the Director Planning and Regulation.
3. ATTACHMENT 3 is CONFIDENTIAL in accordance with Section 10A(2)(a) or Section 10A(2)(g) of the Local Government Act 1993, because it contains personnel matters concerning particular individuals (other than councillors) and advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

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AMENDMENT**Cr P Youngblutt
Cr B Longland****RESOLVED** that:-

1. Any further expense in planting trees to reduce the glare be shared and not the sole responsibility of the owners of the property No 2 Boulder Close.
2. ATTACHMENT 3 is CONFIDENTIAL in accordance with Section 10A(2)(a) or Section 10A(2)(g) of the Local Government Act 1993, because it contains personnel matters concerning particular individuals (other than councillors) and advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

The Amendment was **Carried*****FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr B Longland, Cr W Polglase, Cr J van Lieshout******AGAINST VOTE - Cr K Milne, Cr D Holdom***The Amendment on becoming the Motion was **Carried** - (Minute No 187 refers)***FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr B Longland, Cr W Polglase, Cr J van Lieshout******AGAINST VOTE - Cr D Holdom, Cr K Milne*****17 [PR-CM] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards**

188

**Cr W Polglase
Cr K Skinner****RESOLVED** that Council notes the July 2009 Variations to Development Standards under State Environmental Planning Policy No 1 - Development Standards.The Motion was **Carried*****FOR VOTE - Unanimous***

SUSPENSION OF STANDING ORDERS:

189

**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Standing Orders be suspended to deal with Items 44 and 45 Orders of the Day.

The Motion was **Carried**

FOR VOTE - Unanimous

44 [NOR] [PR-PC] Development Application DA08/1170 for a Two (2) Lot Subdivision at Lot 1 DP 1073137, No. 19 & 43 Turners Road, Wardrop Valley

190

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that the Planning Committee recommendation at Minute Number P99, subsequently adopted at the Ordinary Council Meeting at Minute Number 135, in relation to Item P2 - [PR-PC] Development Application DA08/1170 for a Two (2) Lot Subdivision at Lot 1 DP 1073137, No. 19 & 43 Turners Road, Wardrop Valley, as follows:

"... that Development Application DA08/1170 for a two (2) lot subdivision at Lot 1 DP 1073137, No. 19 & 43 Turners Road, Wardrop Valley be refused for the following reasons:-

- 1. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated compliance with the development standard as being unreasonable or unnecessary in accordance with State Environmental Planning Policy No. 1 – Development Standards*
- 2. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated due consideration or compliance with State Environmental Planning Policy (Rural Lands) 2008 as the proposal will result in:*
 - development being incompatible with surrounding agricultural uses,*
 - potential to create land use conflicts*
 - the proposed subdivision not supporting or enhancing the agricultural production of the site*
- 3. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated due consideration or compliance with the 1(a) zone objectives within Clause 11 of the Tweed Local Environmental Plan 2000, as the proposed development does not:*

- *protect the rural character and amenity;*
 - *prevent the unnecessary fragmentation or development of land which may be needed for long-term urban expansion.*
4. *Pursuant to Section 79C(1)(a)(i) the development proposal in seeking a subdivision for a residential purpose is not consistent with Clause 20(2)(a) of the Tweed Local Environmental Plan 2000, as the proposed Lots are below the minimum requirement of 40 hectares.*
 5. *Pursuant to Section 79C(1)(c) the development site is not considered suitable for the development as proposed.*
 6. *Pursuant to Section 79C(1)(e) the proposed development will result in prohibited development with dwelling houses located on undersized allotments that do not enjoy dwelling entitlements.*
 7. *Pursuant to Section 79C(1)(e) the proposed development, is not within the public interest as the development would create two undersized lots in the 1(a) Rural zone."*

be rescinded.

The Rescission Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr W Polglase, Cr J van Lieshout

AGAINST VOTE - Cr D Holdom, Cr B Longland, Cr K Milne

45 **[NOM] [PR-PC] Development Application DA08/1170 for a Two (2) Lot Subdivision at Lot 1 DP 1073137, No. 19 & 43 Turners Road, Wardrop Valley**

191

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that with regard to DA08/1170 for a Two (2) Lot Subdivision at Lot 1 DP 1073137, No. 19 & 43 Turners Road, Wardrop Valley, Council officers bring forward conditions for approval for consideration by Council.

The Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr W Polglase, Cr J van Lieshout

AGAINST VOTE - Cr D Holdom, Cr B Longland, Cr K Milne

192 RESUMPTION OF STANDING ORDERS

Cr D Holdom

Cr P Youngblutt

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

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