



TWEED SHIRE COUNCIL

# **MINUTES**

## **PLANNING COMMITTEE MEETING**

**Tuesday 18 November 2008**

**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**

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## REPORTS THROUGH GENERAL MANAGER

## REPORTS FROM DIRECTOR PLANNING & REGULATION

### **P1 [PR-PC] Residential and Tourist Code - Section A1 of Tweed DCP - Hastings Point Review**

The following persons addressed the meeting of the Planning Committee on this matter.

Mr Danny Gilles  
Mr John O'Reilly  
Mr Steve Marriott  
Mr John Hart  
Mr Alan McIntosh  
Mr Gary Thorpe

### **P 10 COMMITTEE DECISION:**

**Cr D Holdom**  
**Cr B Longland**

#### **RECOMMENDED** that: -

1. Council adopts the exhibited draft amendments to Section A1 of the Tweed Development Control Plan – Residential and Tourist Code, as it applies to development controls for the Hastings Point area, and in accordance with s21 of the *Environmental Planning Assessment Regulation 2000* gives public notice of the resolution to adopt the Plan in its newspaper, the Tweed Link, within 28 days of that resolution.
2. A detailed Locality Plan and Development Control Plan be prepared for the Hastings Point locality in a timeframe consistent with Council's Strategic Planning priorities.

## **AMENDMENT**

**Cr K Skinner**  
**Cr P Youngblutt**

#### **PROPOSED** that: -

1. Council adopts the exhibited draft amendments to Section A1 of the Tweed Development Control Plan – Residential and Tourist Code, as it applies to development controls for the Hastings Point area, and in accordance with s21 of the *Environmental Planning Assessment Regulation 2000* gives public

notice of the resolution to adopt the Plan in its newspaper, the Tweed Link, within 28 days of that resolution.

2. Any Development Application received on or before the Council adoption of the amended controls referred to in Point 1 above shall not be subject to the assessment of these provisions.
3. A detailed Locality Plan and Development Control Plan be prepared for the Hastings Point locality in a timeframe consistent with Council's Strategic Planning priorities.

The Amendment was **Lost**

**FOR VOTE - Cr P Youngblutt, Cr K Skinner, Cr W Polglase**

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

The Motion was **Carried**

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

**AGAINST VOTE - Cr P Youngblutt, Cr W Polglase**

**P2 [PR-PC] Development Application DA07/0022 for Multi Dwelling Housing Comprising 7 Units at Lot 9 DP 14141, No. 21 Tweed Coast Road, Hastings Point**

The following persons addressed the meeting of the Planning Committee on this matter.

Mr Danny Gilles  
Mrs Julie Boyd  
Mr John O'Reilly  
Mr Ian Beadel  
Mr Merv McPhee

**P 11 COMMITTEE DECISION:**

**Cr B Longland  
Cr K Milne**

**RECOMMENDED** that: -

- A. Development Application DA07/0022 for multi dwelling housing comprising 7 units at Lot 9 DP 14141, No. 21 Tweed Coast Road Hastings Point be refused for the following reasons: -
  1. The application is not considered to be consistent with Section 79C 1(a) of the Environmental Planning & Assessment Act 1979 as it does not satisfy the following applicable planning instruments:

- a. The Tweed LEP 2000 including Clause 4 Aims of the Plan, Clause 5 Ecologically Sustainable Development, Clause 8 Consent Considerations, Clause 11 The Zones, Clause 16 Height, and Clause 31 Development Adjoining Waterbodies;
  - b. The North Coast Regional Environmental Plan including Clause 15 Development Control Wetlands or Fisheries and Clause 32B Development Control – Coastal Lands;
  - c. Clause 8 of State Environmental Planning Policy No. 71 – Coastal Protection.
  - d. Tweed Development Control Plan Section A1 Residential & Tourist Development Code, & Section A2 Site Access & Parking Code.
2. The application is not considered to be consistent with Section 79C 1(b) of the Environmental Planning & Assessment Act 1979 as it would have a negative impact on both the natural and built environment.
  3. The application is not considered to be consistent with Section 79C 1(c) of the Environmental Planning & Assessment Act 1979 as the proposed development has not responded to the sites constraints, the sites ecological significance or the future desired character of Hastings Point.
  4. The application is not considered to be consistent with Section 79C 1(e) of the Environmental Planning & Assessment Act 1979 as the proposed development is not considered in the public interest.
- B. Council engages legal representation to achieve site remediation (which would include the removal of any building footings and re-vegetation of the site to its original state. Such remediation will not include relocation of the sewer line but will include the applicant submitting works as executed drawings, video footage of the line (testing), and dedication of the easement for the sewer line.

## **AMENDMENT**

**Cr K Skinner**  
**Cr P Youngblutt**

**PROPOSED** that Council defers this item and seeks a further report be prepared for the meeting on 9 December 2008, providing recommended conditions of consent as the basis of a Council approval of DA07/0022.

The Amendment was **Lost**

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

The Motion was **Carried**

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

**ADJOURNMENT OF MEETING**

Council adjourned the meeting to deal with Community Access at 6.00pm

**RESUMPTION OF MEETING**

The Meeting resumed at 6.34pm

**P3 [PR-PC] Results of the Department of Planning's Local Development Performance Monitoring Report 2007/08**

**P 12 COMMITTEE DECISION:**

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

**RECOMMENDED** that Council receives and notes this report.

**FOR VOTE - Unanimous**  
**ABSENT DID NOT VOTE: Cr P Youngblutt**

**P4 [PR-PC] Development Application DA07/0945 for Multi Dwelling Housing Consisting 34 Residential Units at Lot 290, 630 DP 755740; Lot 1 DP 781512, No. 7 Elsie Street, Banora Point**

The following persons addressed the meeting of the Planning Committee on this matter.

Mr Majeed Tabrizi (Owner)  
Mr Alex Enborsoff (Architect)

**P 13 COMMITTEE DECISION:**

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

**RECOMMENDED** that this item be deferred to allow for further negotiations with the applicant.

**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**

**P5 [PR-PC] Refurbishment of the Banora Point Caravan Park, Lot 5 in DP 828639 & Lot 382 in DP 755740, Pacific Highway East, Banora Point**

## DECLARATION OF INTEREST

Cr D Holdom declared an Interest in item P5, left the Chamber at 6.45PM and took no part in the discussion or voting. The nature of this interest is her involvement with the local resident action group in relation to this matter.

The following persons addressed the meeting of the Planning Committee on this matter.

Mr Len Hogg  
Mr Bob Morrison

**Cr W Polglase**  
**Cr P Youngblutt**

**PROPOSED** that Council: -

1. Continues to negotiate directly with the owner to seek a lawful development across the site; and
2. Should the negotiations not resolve in a lawful outcome within three (3) months, Council engages legal representation and seeks their direction for the management of approvals and enforcement actions.

## AMENDMENT

**Cr J van Lieshout**  
**Cr B Longland**

**PROPOSED** that Council: -

1. Continues to negotiate directly with the owner to seek a lawful development across the site; and
2. Should the negotiations not resolve in a lawful outcome within two (2) months, Council engages legal representation and seeks their direction for the management of approvals and enforcement actions.

The Amendment was **Lost**

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

The Motion was declared **Lost** on the casting vote of the Mayor.

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

## P 14 AMENDMENT

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**Cr B Longland  
Cr J van Lieshout**

**RECOMMENDED** that Council: -

1. Continues to negotiate directly with the owner to seek a lawful development across the site; and
2. Should the negotiations not resolve in a lawful outcome within two (2) months, Council engages legal representation and seeks their direction for the management of approvals and enforcement actions.

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

**AGAINST VOTE - Cr P Youngblutt, Cr K Skinner**

**ABSENT. DID NOT VOTE - Cr D Holdom**

Cr D Holdom has returned from temporary absence at 07:09 PM

**P6 [PR-PC] Development Application DA07/0716 for a 2 Lot Subdivision at Lot 490 DP 1095234, Casuarina Way, Kingscliff**

**P 15 COMMITTEE DECISION:**

**Cr D Holdom  
Cr W Polglase**

**RECOMMENDED** that Council provides the following Draft Conditions to the Department of Lands in relation to Development Application DA07/0716 for a 2 lot subdivision at Lot 490 DP 1095234, Casuarina Way Kingscliff: -

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos Figure B Proposed Subdivision prepared by Department of Lands and dated 9 May 2007, except where varied by the conditions of this consent.

[GEN0005]

2. The subdivision is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils adopted Development Design and Construction Specifications.

[GEN0125]

3. Future re-development of the proposed allotments shall be subject to separate Development Applications as statutorily required.

[GENNS01]

**PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**



4. Prior to issue of a subdivision certificate, all works/actions/inspections etc required by other conditions or approved plans or the like shall be completed in accordance with those conditions or plans.

[PSC0005]

5. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.

[PSC0825]

6. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:

(a) DELETED

(b) Restrictions on use, including but not limited to the following;

- Prior to any development of either of proposed Lots 1 or 2, a Sewerage and Water Management Plan must be submitted to and approved by Tweed Shire Council, confirming how these lots will be appropriately serviced.
- Council's existing 450mm dia water main within the Casuarina Way road reserve shall be extended to the bridge crossing of Cudgen Creek on an approved alignment, at the time of any development of either of proposed Lots 1 or 2, whichever being the first.
- If not already installed at the time of first development of either of proposed Lots 1 or 2, an appropriately sized sewer rising main shall be extended through the existing 400mm dia steel enveloping conduit under Cudgen Creek and connected to the existing 225mm dia PVC PN16 sewer rising main either side of the conduit.
- Proposed Lot 2 is to have a minimum 50m buffer to Cudgen Creek (measured from mean high water mark).

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0835]

7. DELETED

[PSC0865]

8. Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 7.6 and Councils Application for Subdivision Certificate including the attached notes.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0885]

**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**

**P7 [PR-PC] Development Application DA08/0929 for Construction of a Storage Depot Comprising the Erection of a New Shed and Associated Works at Lot 1 DP 1057594, Fernvale Road, Fernvale**

**P 16 COMMITTEE DECISION:**

**Cr W Polglase**  
**Cr P Youngblutt**

**RECOMMENDED** that this item be deferred.

**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**

**P8 [PR-PC] Development Application DA07/0705 for the Demolition and Redevelopment of Existing Club & Advertising Sign at Lot 1 DP 1088100, No. 260 Fraser Drive, Banora Point**

**P 17 COMMITTEE DECISION:**

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

**RECOMMENDED** that Council endorses staff to continue to liaise with its Solicitors and defend the Appeal in the Land and Environment Court in respect of Development Application DA07/0705 for the demolition and redevelopment of existing club and advertising sign at Lot 1 DP 1088100, No. 260 Fraser Drive, Banora Point by way of an initial Section 34 conference and to proceed to a full hearing should the Section 34 conference be unsuccessful in mediating an outcome suitable to both parties.

**FOR VOTE - Unanimous**

**P9 [PR-PC] Section 96 Application DA06/1442.01 for an Amendment to Development Consent DA06/1442 for Extensions to Existing Nursing Home Facility at Lot 1 DP 1099088, No. 18 Ballymore Court, Banora Point**

The following persons addressed the meeting of the Planning Committee on this matter.

Mr Tim Tait, Project Director, Amity Group

**P 18 COMMITTEE DECISION:**

**Cr B Longland  
Cr D Holdom**

**RECOMMENDED** that Section 96 Application DA06/1442.01 for an amendment to Development Consent DA06/1442 for extensions to an existing nursing home facility at Lot 1 DP 1099088, No. 18 Ballymore Court, Banora Point be refused for the following reasons:-

1. The proposed modification is not considered to be in accordance with the provisions of Council's Section 64 Water and Sewer Development Servicing Plans.
2. The proposed modification is not considered to be in accordance with the provisions of Council's Section 94 Contributions Plan.
3. The proposed modification is not considered to be in the public interest.

**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**

**P10 [CNR-PC] Development of a Model Biodiversity Development Control Plan - NRCMA Contract IS8-9-L-1**

**P 19 COMMITTEE DECISION:**

**Cr B Longland  
Cr J van Lieshout**

**RECOMMENDED** that Council:-

1. Accepts the grant of \$45,000 from the Northern Rivers Catchment Management Authority in accordance with NRCMA Contract IS8-9-L-1 - Development of a Model Biodiversity Development Control Plan and votes the expenditure.

2. Prepares a draft Biodiversity Development Control Plan based on the model plan described in 1 above consistent with adoption of the Tweed Vegetation Management Strategy 2004 at the Council meeting of 17 April 2007.

***FOR VOTE - Unanimous***

**P 20 COMMITTEE DECISION:**

**Cr D Holdom**

**Cr K Skinner**

**RECOMMENDED** that the Planning Committee resumes in open Council under the Chairmanship of the Mayor.

***FOR VOTE - Unanimous***

