



TWEED
SHIRE COUNCIL

Mayor: Cr B Longland

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

Agenda

Extraordinary Council Meeting Tuesday 22 November 2011

held at Murwillumbah Cultural and Civic Centre
commencing at **5.00pm**

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.

Items for Consideration of Council:

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2	[NOM-Cr K Milne] Development Application DA11/0164 for alterations, additions and part demolition of three flats to construct a three storey dwelling at Lot 2 DP557216 No 26 Tweed Coast Road, Hastings Point	13

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ORDERS OF THE DAY

- 1 [NOR-Cr B Longland, Cr K Milne, Cr J van Lieshout] Development Application DA11/0164 for alterations, additions and part demolition of three flats to construct a three storey dwelling at Lot 2 DP557216 26 Tweed Coast Road Hastings Point

NOTICE OF RESCISSION:

Councillors B Longland, K Milne and J van Lieshout moves Council resolution No 653 of its meeting of Tuesday 15 November 2011 being:

"RESOLVED that Development Application DA11/0164 for alterations, additions and part demolition of three flats to construct a three storey dwelling at Lot 2 DP557216 26 Tweed Coast Road, Hastings Point be approved subject to the following conditions:

GENERAL

1. *The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos Johnston EP:01 Issue V, Johnston DA:01 Issue V, Johnston DA:02 Issue V, Johnston DA:03 Issue V, Johnston DA:04 Issue V, Johnston DA:04A Issue V and Johnston DA:05 Issue V prepared by Brian Kenny and dated 29 August 2011, except where varied by the conditions of this consent.*

[GEN0005]
2. *The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.*

[GEN0115]
3. *The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.*

[GEN0300]
4. *The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate. The footing design is to incorporate design principles as detailed in the structural design intent certificate by Mark Traucnieks consulting Engineers dated 8 March 2011 to address potential coastal erosion influences.*

[PCC0945]
5. *The existing brick barbeque on the foreshore east area of the site is to be removed.*

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. *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]

7. *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]

8. *An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.*

[PCW1065]

9. *Dilapidation reports detailing the current general condition including the structural condition of the adjoining buildings/sites, infrastructure and driveway are to be prepared and certified by a suitably qualified and experienced structural engineer. The reports are to be submitted to Council prior to commencement of ANY works on the site.*

[PCW0775]

10. *Prior to the commencement of work on the stormwater system a site inspection is to be arranged with the Principal Certifying Authority to discuss site drainage.*

[PCW0995]

11. *Prior to commencement of any work on the site a construction management plan is to be submitted to and approved by the Principal Certifying Authority. The plan is to detail how the construction will manage deliveries, general construction vehicle movement, concrete deliveries, traffic management, and in particular the minimisation of disruption to the residential units that share the driveway access.*

[PCWNS01]

PRIOR TO COMMENCEMENT OF WORK

12. *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]

13. 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]

14. 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]

15. *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]

16. *All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or 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. Note All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the Principal Certifying Authority prior to commencement of building works.*

[PCW1005]

17. *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]

18. *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]

19. *During construction the Principal Certifying Authority is to be provided with a Registered Surveyors' floor level certificate at each floor platform stage and when*

the roof framework is in place, to confirm that the height of the building is proceeding in accordance with the approved plans.

[DURNS01]

20. *Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake the works.*

[DUR0675]

21. *All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures", to the relevant requirements of the WorkCover NSW, Occupational Health and Safety Regulation 2001 and the approved demolition work plan.*

The proponent shall also observe the guidelines set down under the Department of Environment and Climate Change publication, "A Renovators Guide to the Dangers of Lead" and the Workcover Guidelines on working with asbestos.

[DUR0645]

22. *Construction and management of the building shall comply with Section 1.0 of the Bushfire Threat Assessment Report by BCA Check Pty Ltd dated 15th February 2011 and all boundary fences are to be constructed of non-combustible materials.*

[DURNS02]

DURING CONSTRUCTION

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

[DUR2705]

24. *All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan Part A1 to the satisfaction of the Principal Certifying Authority.*

Please note timber retaining walls are not permitted.

[DUR0835]

25. *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]

26. *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]

27. *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]

28. *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]

29. *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]

30. *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]

31. *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]

32. *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]

33. *The wall and 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]

34. *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]

35. *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]

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

[DUR1945]

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

[DUR2515]

38. *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]

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

[DUR0445]

40. *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]

41. *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]

42. *Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.*

[POC1045]

43. *Upon completion of all works on the site and prior to the issue of an Occupation (including interim) / Subdivision Certificate, a further dilapidation report is to be prepared and certified by a suitably qualified and experienced structural engineer detailing the current general condition including the structural condition of the adjoining buildings / sites, infrastructure and roads. The dilapidation reports shall take into consideration the findings of the original reports and provide to Council the written acceptance of the adjoining / adjacent owners confirming agreement that no damages have occurred / repairs carried out are acceptable.*

[POC0825]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

44. *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]

45. *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]

46. *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

47. *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]

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

[USE0505]"

be rescinded.

2 [NOM-Cr K Milne] Development Application DA11/0164 for alterations, additions and part demolition of three flats to construct a three storey dwelling at Lot 2 DP557216 No 26 Tweed Coast Road, Hastings Point

NOTICE OF MOTION:

Councillor K Milne moves that Development Application DA11/0164 for alterations, additions and part demolition of three flats to construct a three storey dwelling at Lot 2 DP557216 No 26 Tweed Coast Road, Hastings Point be refused for the following reasons:

1. The proposed development proposes excessive length, height and scale as a single building for the position and precinct in which it is located.
 2. The proposed development fails to break the building form/length to achieve acceptable broken down forms and the objective of a series of smaller buildings for this precinct.
 3. The proposed development fails to provide adequate space for landscaping at its rear or within the development site to achieve the desired future character objectives of the precinct.
 4. The proposed development fails to provide dense landscaping at its rear to ensure sufficient setback from the top of the dunes between urban and natural areas and private and public land.
 5. The proposed development will have unacceptable impact of size, height and scale on its surrounding environs.
 6. The proposed development will set a dangerous precedent for this precinct and the rest of Hastings Point and will have an unacceptable cumulative impact on the locality and community.
 7. The application fails to adequately comply with:
 - (a) Tweed LEP - Clause 8(1)(c)- cumulative impact
 - (b) DCP A1 - Storeys and Rear Setback
 - (c) DCPB23 – Height, Form, Length, Setbacks, Landscaping, Roof Forms & Desired Future Character
 8. The development is not considered to be consistent with the general public interest as the development fails to uphold the integrity of the approved planning instruments of the Shire.
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