

Late Addendum Report

MAYORAL MINUTE

a4 [MM-CM] Mayoral Minute Planning Proposal Mooball

SUBMITTED BY: Cr G Bagnall, Mayor

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.2 Improve decision making by engaging stakeholders and taking into account community input
 - 1.2.2 Decisions made relating to the allocation of priorities will be in the long-term interests of the community
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Councillors

As per Council's Code of Meeting Practice – Item 1.5.1,

"1.5.1 Mayoral Minute

The Mayor may put to a Council meeting (without notice) any matter which the council is allowed to deal with or which the council officially knows about. This would cover any council function under the Act or other legislation, or any matter that has been brought to the council's attention, for example, by letter to the Mayor or the General Manager.

The Regulation Clause 243(1)"

I table the submission received and reproduce same for Council's information as follows:

"Subject: MOOBALL PP - POLICIES/STRATEGIES

Cr Gary Bagnall
Mayor
TSC.

Troy Green
General Manager
TSC.

Dear Gary and Troy,

Having taken a keen interest in council matters for more than 16yrs after personally experiencing and witnessing real skulduggery that has seen 2 DLG Section 430 Investigations and Daly Inquiry that resulted in the sacking of council in 2005 the Mooball community rightly have very serious concerns regarding the Mooball PP10/0007.

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It must be noted the Mooball community overwhelmingly is not opposed to development, they simply want the constraints properly addressed and retain the rural character and amenity of the Mooball village and generally were satisfied and appreciated the council officers report and recommendations to council 2/7/15, acknowledging their genuine concerns.

A key finding of the Section 430 Investigation TSC 2005 - ***“It is also unfortunate that lands identified for potential urban expansion were zoned Residential Urban Expansion rather than retain a rural zone until the environmental constraints and development capacity of the land was known...The assumption that the development assessment process can deal with such a situation is flawed because refusal of applications which are permissible in the zone is notoriously difficult.”*** (pg.5/6)

TSC sent the amended Mooball PP10/0007 to NSW DoP 3/4/14 for a Gateway Determination advising a number of actions required prior to Public Exhibition by resolution of council which included;

- A Bushfire Hazard Assessment
- A Geotechnical and Slope Stability Assessment
- A Flood Impact Study
- A Site Contamination Report (in response to SEPP 55)

Following receipt of the PP and relevant council advice TSC were advised 1/5/14 DoP determined the PP should proceed subject to variation and conditions in the attached Gateway Determination which included Condition 5;

- Consultation with OEH and NSW RFS.

RFS responded ***the bushfire report to be included in any public consultation on the PP. OEH considers it inappropriate to rezone the land until the sustainability criteria have been fully addressed.***

The progression of the Mooball PP in council has seen the Cr who moved a motion to ***give priority to the advancement of a rezoning of the subject land*** repeatedly mislead fellow Cr's, staff and the public with false claims in the council chamber during the decision making process in the later stages of this PP. i.e. ***Mooball has never flooded; only 1 family had objections to the development; there are only 2 farmers in Mooball; the 2 persons who collected signatures for the petition do not live in Mooball and were activists from outside.***

The facts being Mooball has serious flood issues; the vast majority of the community did not have a clue of the extent of the PP; several farmers live in Mooball; the 2 persons with the petition do indeed live in Mooball.

This same Cr along with 2 political allies did not even have the courtesy to accept the petition from the Mooball community tabled at the meeting 6/8/15, have chosen not to attend meetings with the community and the majority of Cr's rejected a request for a workshop with Cr's to discuss their genuine concerns of constraints has displayed real contempt for this community. The Cr's amendment to the recommendation removes the submission report being ***received as a true and accurate record*** which is the issues raised and no. of submissions per issue. The amendment is dressed to look like it was responding to the

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communities concerns when in fact it has **no** relevance to the actual rezoning that will occur on this amendment. Indeed the increase to minimum lot sizes is removed (point 3) and the removal of the additional studies prior to rezoning circumvents the sustainability criteria being **fully** addressed.

That the Cr who has driven this PP has stated the people of Tweed are **morons** and now **some idiots** in the community totally undermines any confidence in the proper process of decision making in council.

Below is a collation of relevant Policies/ Strategies and points on the requirements for the rezoning of land. While I appreciate this matter is now in the hands of our Shire's elected representatives your consideration of this matter will be most appreciated.

Many thanks.
Regards

FAR NORTH COAST REGIONAL STRATEGY – APPENDIX 1, SUSTAINABILITY CRITERIA

In order that a development proposal can be considered against the Sustainability Criteria it will be necessary to demonstrate to the local council, as well as the State Government, that the proposal satisfies the Sustainability Criteria. As with all rezoning proposals the Department of Planning requires a thorough assessment of the merits of the proposal...

Avoidance of Risk: Land use conflicts, and risk to human health and life, avoided.

- ***No residential development within 1:100 floodplain***
- ***Avoidance of physically constrained land***

The Far North Coast Regional Strategy identifies the Far North Coast - ***“the Region’s strong rural heritage and richness of its natural environment, provide the foundation and potential to further develop as a REGION OF VILLAGES”***

STATE ENVIRONMENTAL PLANNING POLICY (SEPP) ASSESSMENT

Clause 12: Development Control – impact of development on agricultural activities.

The Assessment recommends a Development Control Plan (DCP) to implement appropriate setbacks minimising the impact of the proposed development on the adjacent banana plantation.

Clause 45: Hazards.

The Assessment identifies *“the site has the potential for contaminated land and geological or soil instability. These findings are from preliminary investigations only, which indicate the potential for these hazards. Additional work is recommended to confirm the existence of these hazards. Council bushfire mapping indicates bushfire hazard due to Category 1 Vegetation. A DCP is recommended to guide development sites on future lots to reduce the risk of impacts from these hazards.”*

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HOWEVER, COUNCIL REMOVED THE REQUIREMENT FOR THE MOOBALL DCP FROM THE 'WORK PLAN' 6/8/15 SO THE PP WILL NOW HAVE NO PROVISION TO IMPLEMENT MEASURES TO REDUCE THE RISK OF KNOWN HAZARDS.

Council's external consultant recommended the south eastern area of the site be adjusted to minimum 3ha lots so that adequate buffers can be provided to an existing agricultural operation immediately adjacent to the development site and "will facilitate development to avoid physically-constrained land (note that this part of the site is constrained by overland flow paths and undulating topography which will influence future dwelling positions)."

Clause 55: Remediation of Land.

Land must not be developed if contamination renders it unsuitable for a proposed use.

Limited testing have identified arsenic hot spots exceeding levels for residential land use. No testing has been undertaken on the area of the proposed concentration of 450m² lots.

MINISTERIAL SECTION 117 DIRECTIONS

4. HAZARD AND RISK: 4.3 Flood Prone Land – Applies when a relevant planning authority prepares a PP that creates, removes or alters a zone or a provision that affects flood prone land.

(6) A Planning Proposal must not contain provisions that apply to the flood planning areas which: (b) permit development that will result in significant flood impacts to other properties

A thorough assessment has not been undertaken to address the flood impacts to other properties and adequacy of flood mitigation (*Flood Impact Assessment 3/15*) for the proposed development has not been ascertained as the proposed flood storage in part is on land not owned by the proponent, there are no provisions for conveyance and no consideration of local flooding.

4.4 Planning for Bushfire Protection – Applies when a relevant planning authority prepares a PP that will affect, or is in proximity to land mapped as bushfire prone land.

**(11) A Planning Proposal must, where development is proposed, comply with the following provisions, as appropriate: (a) provide an Asset Protection Zone (APZ)
There is no provision for an APZ for residential lots adjoining Category 1 Vegetation.**

TWEED SHIRE URBAN LAND RELEASE STRATEGY (TSULRS)

Appendix B – Land Suitability Analysis

Slopes greater than 14 degrees are likely to have geological constraints and are susceptible to mass movement and high to very high erosion hazard. Lands with a slope greater than 14 degrees should be excluded from further development.

Residential lots are proposed on slopes greater than 18 degrees.

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GEOTECHNICAL AND SLOPE STABILITY ASSESSMENT

“Details on proposed earthwork levels were not known at the time of the preparation of this report...slip and seepage was noted...There are numerous drainage gullies scattered throughout the site which will need to be looked at in detail as they may have a significant impact on the development with regard to surface flow...It must be noted this assessment is based on very limited work over a large area and as such should be considered preliminary only and should be confirmed by a more detailed geotechnical investigation and assessment.”

This assessment was undertaken when the PP was a less intense development with larger lot sizes and the steep hills not proposed as residential lots but as open space and walking trails.

FLOOD IMPACT ASSESSMENT

“The purpose of this Flood Impact Assessment is to identify flood factors within the proposed development site, to describe the flood characteristics of the site and to propose flood mitigation measures to maximise protection and safety of residents/visitors and property of the proposed development site.”

This assessment assumes flooding is due to the backup effect associated with the regional flood events and flood waters are relatively slow moving which is contrary to the local knowledge of the flood events and fast flowing flood waters, including off the development site.

Documents state “The cumulative impacts of flooding downstream of the site are a relevant consideration , given habitable dwellings are located immediately downstream of the site.” However there remains no consideration of the cumulative flood impact on the downstream community.

TWEED SHIRE DRAFT RURAL VILLAGES STRATEGY

Re Mooball: “In keeping with a historical character and acknowledging the flood constraints of the village, lot sizes are predominately 700-1000m² on the southern side of Tweed Valley Way and predominately greater than 1000m² on the northern side of Tweed Valley Way.”

Proposed Actions of this Strategy is to provide controls to protect character and integrate future development of Mooball with the current built form of the village.

- **COUNCIL OFFICERS RECOMMENDATIONS TO INCREASE THE MINIMUM LOT SIZES WAS A RESPONSE TO AN OVERWHELMING NO. OF THE MOOBALL COMMUNITY AND SUPPORTS THE CASE FOR THIS RURAL VILLAGE TO RETAIN ITS RURAL CHARACTER AND AMENITY.**
- **INCREASED LOT SIZES WILL ALLOW BETTER OPPORTUNITIES TO IMPLEMENT PROVISIONS TO MANAGE THE RISK OF IDENTIFIED HAZARDS.**
- **IT MUST BE NOTED A PROPONENT HAS THE OPPORTUNITY TO SEEK VARIANCES IN LOT SIZES IF COMPLIANCE OF STANDARDS ARE SATISFIED – BUT THERE IS NO PROVISION AND IS EXTREMELY DIFFICULT TO INCREASE LOT SIZE.**

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- THE PROCESS OF COMMUNITY CONSULTATION AND ENGAGEMENT ALONG WITH DEVELOPMENT OF POLICIES/STRATEGIES/PLANS TO ACHIEVE SUSTAINABLE DEVELOPMENT AND HEALTHY COMMUNITIES IS A TOTAL WASTE OF THE COMMUNITIES TIME, COUNCIL RESOURCES/TIME AND TAX/RATEPAYERS \$ WHEN DECISION MAKERS - SEE NO TRUTH, HEAR NO TRUTH WITH THE ONLY PRIORITY BEING IN THE INTEREST OF VESTED INTERESTS."
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COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice Version 2.5.

b. Budget/Long Term Financial Plan:

Appropriate expenditure is allowed for attendance by Councillors at nominated conferences, training sessions and workshops.

c. Legal:

Not applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

RECOMMENDATION:

That the Mayoral Minute dealing with a submission relating to PP10/007 - Mooball Planning Proposal be received and noted.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.
