



**TWEED**  
SHIRE COUNCIL

**Mayor:** Cr K Milne

**Councillors:** G Bagnall (Deputy Mayor)  
C Byrne  
B Longland  
W Polglase  
P Youngblutt

# Minutes

## **Planning Committee Meeting Thursday 1 October 2015**

held at Murwillumbah Cultural and Civic Centre  
commencing at 5.00pm

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 79C**  
**79C Evaluation**

(1) Matters for consideration-general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
- (iii) any development control plan, and
- (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979 ),

that apply to the land to which the development application relates,

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

**Note:** See section 75P (2) (a) for circumstances in which determination of development application to be generally consistent with approved concept plan for a project under Part 3A.

The consent authority is not required to take into consideration the likely impact of the development on biodiversity values if:

- (a) the development is to be carried out on biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995 ), or
- (b) a biobanking statement has been issued in respect of the development under Part 7A of the Threatened Species Conservation Act 1995 .

(2) Compliance with non-discretionary development standards-development other than complying development If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:

- (a) is not entitled to take those standards into further consideration in determining the development application, and
- (b) must not refuse the application on the ground that the development does not comply with those standards, and
- (c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,

and the discretion of the consent authority under this section and section 80 is limited accordingly.

- (3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:
  - (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 80 is not limited as referred to in that subsection, and
  - (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

**Note:** The application of non-discretionary development standards to complying development is dealt with in section 85A (3) and (4).

- (4) Consent where an accreditation is in force A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.
- (5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).
- (6) Definitions In this section:
  - (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and
  - (b) "non-discretionary development standards" means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

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The Meeting commenced at 5.04pm.

**IN ATTENDANCE**

Cr K Milne (Mayor), Cr C Byrne, Cr B Longland, Cr W Polglase and Cr P Youngblutt.

Also present were Mr Troy Green (General Manager), Ms Liz Collyer (Director Corporate Services), Mr Anthony Burnham (Acting Director Engineering), Mr Vince Connell (Director Planning and Regulation), Ms Tracey Stinson (Director Community and Natural Resources), Mr Neil Baldwin (Manager Corporate Governance) and Miss Janet Twohill (Minutes Secretary).

**ABORIGINAL STATEMENT**

The Mayor acknowledged the Bundjalung Aboriginal Nation with the following statement:

*"We wish to recognise the generations of the local Aboriginal people of the Bundjalung Nation who have lived in and derived their physical and spiritual needs from the forests, rivers, lakes and streams of this beautiful valley over many thousands of years as the traditional owners and custodians of these lands."*

**PRAYER**

The meeting opened with a Prayer read by the Mayor.

**APOLOGIES**

Attendee Cr G Bagnall has informed the General Manager that his absence is caused by ill health

**P 111**

**Cr K Milne**  
**Cr B Longland**

**RESOLVED** that the apology of Cr G Bagnall be accepted and the necessary leave of absence be granted.

The Motion was **Carried**

**FOR VOTE - Cr B Longland, Cr K Milne, Cr W Polglase, Cr P Youngblutt**  
**AGAINST VOTE - Cr C Byrne**

**DISCLOSURE OF INTEREST**

Nil.

**ITEMS TO BE MOVED FROM ORDINARY TO CONFIDENTIAL - CONFIDENTIAL TO ORDINARY**

Nil.

## **SCHEDULE OF OUTSTANDING RESOLUTIONS**

Nil.

## **REPORTS THROUGH THE GENERAL MANAGER**

Nil.

## **REPORTS FROM THE DIRECTOR PLANNING AND REGULATION**

- 1            **[PR-PC] Development Application DA15/0422 for a 65 lot subdivision at Lot 1147 DP 1115395; Seabreeze Boulevard Pottsville**

**P 112**

**Cr C Byrne**

**Cr B Longland**

**RECOMMENDED** that Development Application DA15/0422 for a 65 lot subdivision at Lot 1147 DP 1115395; Seabreeze Boulevard Pottsville be refused for the following reasons:

1. The proposal is not consistent with Section B15 of Council's Development Control Plan, which identifies the site as a potential school site;
2. The proposal is not consistent with Council's resolution dated 14 February 2013 which states the earmarking of the 'Potential Future School Site' in the existing Section B15 to be reviewed, if requested, no earlier than 2018;
3. The proposal is not consistent with Section B21 of Council's Development Control Plan, which identifies the site as a potential school site;
4. The proposal is not consistent with Section A5 of Council's Development Control Plan, which identifies a 150m buffer to Agricultural lands;
5. The proposal is not consistent with Section A5 of Council's Development Control Plan, which requires a 50% road frontage to local parks; and
6. The proposal is not consistent with Council's Development Design Specifications D12 – Sewerage System, which identifies a 50m buffer to Sewer Pump Stations.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**2 [PR-PC] Gold Coast Airport Pty Ltd - Draft Major Development Plan - SUBMISSION**

**P 113**

**Cr B Longland**

**Cr W Polglase**

**RECOMMENDED** that the attached submission on the Gold Coast Airport Preliminary Draft Major Development Plan July 2015 be forwarded to GCAPL for their consideration.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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**3 [PR-PC] Planning Proposal PP13/0001 Border Park Raceway, Tweed Heads, being Amendment No 2 to the Tweed Local Environmental Plan (LEP) 2014**

**P 114**

**Cr B Longland**

**Cr W Polglase**

**RECOMMENDED** that:

1. Planning Proposal PP13/0001 is to be updated to incorporate the recommendations contained within this report and referred to the Minister for Planning and Environment to be made under Section 59 of the *Environmental Planning and Assessment Act 1979*.
2. Tweed Development Control Plan 2008, Section A17, is to be amended to include site specific controls, as discussed within this report, and publically exhibited for a period not less than 28 days.
3. In accordance with Clause 21(1) of the *Environmental Planning and Assessment Regulation 2000* a further report addressing any public submissions duly made be submitted to the earliest meeting of the Council.

**AMENDMENT 1**

**P 115**

**Cr K Milne**

**Cr B Longland**

**PROPOSED** that this item be deferred for a workshop to consider the potential for public open space to be included in the rezoning and further discussion about buffers.

Amendment 1 was **Lost**

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**FOR VOTE - Cr K Milne**

**AGAINST VOTE - Cr B Longland, Cr C Byrne, Cr W Polglase, Cr P Youngblutt**

The Motion was **Carried** (Minute No. P 114 refers)

**FOR VOTE - Cr B Longland, Cr C Byrne, Cr W Polglase, Cr P Youngblutt**

**AGAINST VOTE - Cr K Milne**

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**4 [PR-PC] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards**

**P 116**

**Cr P Youngblutt**

**Cr K Milne**

**RECOMMENDED** that Council notes there are no variations for the month of September 2015 to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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There being no further business the Planning Committee Meeting terminated at 5.20pm.

