



TWEED
SHIRE COUNCIL

Mayor: Cr G Bagnall

Councillors: P Youngblutt (Deputy Mayor)
C Byrne
B Longland
K Milne
W Polglase

Minutes

Planning Committee Meeting Thursday 6 August 2015

held at Murwillumbah Cultural and Civic Centre
commencing at 5.00pm

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The Meeting commenced at 5.00pm.

IN ATTENDANCE

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

Also present were Mr Troy Green (General Manager), Ms Liz Collyer (Director Corporate Services), Mr David Oxenham (Director Engineering), Mr Vince Connell (Director Planning and Regulation), Ms Tracey Stinson (Director Community and Natural Resources), Mr Shane Davidson (Executive Officer), 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

Nil.

DISCLOSURE OF INTEREST

Cr Youngblutt declared a non-pecuniary, non-significant interest in Item C1 [PR-PC] Class 1 Appeal Development Application DA15/0201 for a 20 Lot Subdivision and Associated Works at Lot 156 DP 628026 No. 40 Creek Street, Hastings Point. He will remain in the chamber for discussion and voting on the matter.

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

Nil.

SCHEDULE OF OUTSTANDING RESOLUTIONS

Nil.

RECEIPT OF PETITIONS

A1 [ROP-PC] Receipt of Petitions

P88

Cr K Milne
Cr G Bagnall

RECOMMENDED that the following tabled Petition(s) be received and noted:

- Petition containing 45 signatures and a letter with 2 signatures from the community of Mooball was tabled at the Planning Committee meeting advising that:

"We the Community of Mooball have expressed our serious concerns regarding the Mooball PP10/0007. We have had meeting addressing our concerns, written submissions addressing these issues, spoken with Council staff. At a recent information meeting at Mooball 27/6 when 3 of our Councillors were present residents expressed to all of them the serious concern regarding this planning proposal. When are the Councillors voted by the rate payers and residents of Mooball and surrounding areas going to stop and listen to the serious concerns we have.

We as residents have valuable knowledge and information regarding all of the issues that this PP has but it continues to be ignored. The proponent is given time with Councillors to put their case to them in a workshop, but again the residents have never been given the same opportunity to sit with all our Councillors and express the serious issues regarding this PP and pass on their knowledge. Representatives from the Mooball Community deserve the same that has been afforded to others to address these serious issues. The Flood Impact Study only relates to the dwellings that will be built in the new development it does nothing to address the impact on the existing residents.

Please address all issues prior to rezoning.

- *Flood Impact on current residents, farmland and residents in the catchment.*
- *Proper testing for contaminated soils, area with main concentration of housing has never been tested.*
- *Slope stability*
- *Lot sizes*
- *Protecting this rural village (not turning into a Sea Breeze style development)"*

FOR VOTE - Cr B Longland, Cr K Milne, Cr G Bagnall

AGAINST VOTE - Cr C Byrne, Cr W Polglase, Cr P Youngblutt

The Motion was **Carried** on the Casting Vote of the Mayor.

REPORTS THROUGH THE GENERAL MANAGER

Nil.

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 1 [PR-PC] Development Application DA14/0904 for a 28 Townhouse Development at Lot 2 DP 566095 No. 47 Champagne Drive, Tweed Heads South**

P 89

**Cr K Milne
Cr C Byrne**

RECOMMENDED that Council give in-principle support for the application and brings back recommended conditions of consent to the September Planning Committee Meeting.

The Motion was **Carried**

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

- 2 [PR-PC] Development Application DA15/0422 for a 65 Lot Subdivision at Lot 1147 DP 1115395 Seabreeze Boulevard, Pottsville**

P 90

**Cr C Byrne
Cr P Youngblutt**

RECOMMENDED that assessment of Development Application DA15/0422 for a 65 lot subdivision at Lot 1147 DP 1115395 Seabreeze Boulevard, Pottsville be finalised based on the information provided to date by the applicant, including Council's resolution of 14 February 2013 and be reported back to Council for determination.

The Motion was **Carried**

FOR VOTE - Unanimous

- 3 [PR-PC] Development Application DA13/0401.01 for an Amendment to Development Consent DA13/0401 for Integrated Housing Comprising of 12 Dwellings at Lots 35 and 36 DP 1145386 Cylinders Drive, Kingscliff**

P 91

**Cr W Polglase
Cr P Youngblutt**

RECOMMENDED that Council instructs its solicitors to negotiate consent orders, or a Section 34 agreement if appropriate, for Development Application DA13/0401.01 for an

amendment to Development Consent DA13/0401 for integrated housing comprising of 12 dwellings at Lot 35 DP 1145386 and Lot 36 DP 1145386; Cylinders Drive Kingscliff.

The Motion was **Carried**

FOR VOTE - Unanimous

4 [PR-PC] PP10/0007 Mooball Planning Proposal

P 92

**Cr P Youngblutt
Cr W Polglase**

PROPOSED that:

1. The summary of public submissions received in response to the public exhibition of the Mooball Planning Proposal, PP10/0007, during 30 July to 29 August 2014, is received as a true and accurate record.
2. A public hearing under Section 57(5) of the *Environmental Planning and Assessment Act 1979* not be held in relation to the issues raised by way of submission as the issues are not of such significance to warrant a public hearing.
3. The Planning Proposal be amended to incorporate the recommendations detailed within Table 3 of this report (Recommended Post Exhibition Planning Proposal Amendments), except Item 1. The minimum lot size is to remain at 450m², as publicly exhibited.
4. The additional studies and information referred to in Item 3 and Item 6 of the Council Resolution to the Meeting of 21 November 2013 relating to further detailed site investigations and provisions relating to Lot B are not required as part of this Planning Proposal, and all commitments of the Proponent made in relation to Lot B are to be contained within a legally enforceable planning agreement as detailed in Item 5 of Table 3 to this Report.
5. Following satisfactory completion of items in point 4, Council proceeds to finalise the Planning Proposal in accordance with the Resolutions above, and refer the amended Planning Proposal to the Minister for Planning and Environment in accordance with Section 58(2) of the *Environmental Planning and Assessment Act 1979* for their review and re-determination if appropriate.
6. Council proceeds to assist the Proponent finalise their Voluntary Planning Agreement and proceed to publicly exhibit the draft Agreement for 28 days in accordance with Section 93(G) of the *Environmental Planning and Assessment Act 1979*.
7. The commitments given to Council at the Councillors Workshop of 11 June 2015 by the Proponent's in regard to providing detailed guidelines on housing typology, materials, landscape cover and architectural stylistic or character features that are

representative of the local area, are to be incorporated within their Voluntary Planning Agreement.

AMENDMENT 1

P 93

**Cr K Milne
Cr G Bagnall**

PROPOSED that:

1. The summary of public submissions received in response to the public exhibition of the Mooball Planning Proposal, PP10/0007, during 30 July to 29 August 2014, is received as a true and accurate record.
2. A public hearing under Section 57(5) of the *Environmental Planning and Assessment Act 1979* not be held in relation to the issues raised by way of submission as studies addressing certain issues, the subject of Council's Resolution of 21 November 2013.
3. The Planning Proposal be amended to incorporate the recommendations detailed within Table 3 of this report (Recommended Post Exhibition Planning Proposal Amendments).
4. No further action in respect of the Planning Proposal be undertaken until the additional studies required of the Proponent pursuant to Council's Resolutions of 21 November 2013 have been prepared to Council's satisfaction, submitted, and the findings made publicly available and reported to a Meeting of the Council.
5. Following satisfactory completion of items in point 4, Council proceeds to finalise the Planning Proposal in accordance with the Resolutions above, and refer the amended Planning Proposal to the Minister for Planning and Environment in accordance with Section 58(2) of the *Environmental Planning and Assessment Act 1979* for their review and re-determination if appropriate.
6. Council proceeds to assist the Proponent finalise their Voluntary Planning Agreement and proceed to publicly exhibit the draft Agreement for 28 days in accordance with Section 93(G) of the *Environmental Planning and Assessment Act 1979*.
7. The commitment's given to Council at the Councillor Workshop of 11 June 2015 by the Proponents in regard to providing detailed guidelines on housing typology, materials, landscape cover and architectural stylistic or character features that are representative of the local area, are to be incorporated within their Voluntary Planning Agreement.

Amendment 1 was **Lost**

FOR VOTE - Cr K Milne, Cr G Bagnall

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

ADJOURNMENT OF MEETING

The meeting was adjourned at 5.45pm.

RESUMPTION OF MEETING

The Meeting resumed at 5.55pm

AMENDMENT 2

P 94

Cr B Longland

Cr C Byrne

RECOMMENDED that Council note the following motion to be resubmitted with this report, for consideration at the August Ordinary Council meeting along with the submission of a relevant rescission motion from 21 November 2013.

1. The concept layout plan prepared by the proponents and exhibited be acknowledged as conceptual only and that any future development application be based upon the detailed assessments outlined in point 4 below.
2. A public hearing under Section 57(5) of the Environmental Planning & Assessment Act 1979 not be held in relation to the issues raised by way of submission as the issues are not of such significance to warrant a public hearing.
3. The Planning Proposal be amended to incorporate the recommendations detailed within table 3 of this report (recommended post exhibition Planning Proposal amendments), with the exception of items 1, 3 & 7.
4. The additional studies and information referred to in item 3 and 6 of the Council resolution of the meeting of 21 November 2013 relating to further detailed site investigations and provisions relating to Lot B are not required as part of this Planning Proposal, and all commitments of the proponent made in relation to Lot B are to be contained in a legally enforceable Voluntary Planning Agreement (VPA) as detailed in item 5 of Table 3 to this report. In addition, the proponents must also include within the VPA a commitment to undertake detailed flooding, geotechnical and bushfire assessments as part of any future development application to the satisfaction of Council before any development can be approved.
5. Following satisfactory completion of a Draft VPA referred to in Point 4, Council will proceed to finalise the Planning Proposal and refer it to the Minister for Planning & Environment in accordance with Section 58(2) of the Environmental Planning & Assessment Act 1979 for their determination.
6. Council proceeds to assist the proponent, where necessary, to finalise the Draft VPA and proceed to publicly exhibit the Draft Agreement for 28 days in accordance with Section 93(g) of the Environmental Planning & Assessment Act 1979, following which the VPA will be formally determined.

7. The commitments given to Council at the Councillor's workshop of 11 June 2015 by the proponents in regard to providing detailed guidelines on housing typology, materials, landscaping and architectural stylistic or character features that are representative of the local area are to be also incorporated within their VPA.

Amendment 2 was **Carried**

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

Amendment 2 on becoming the motion was **Carried** (Minute No P94 refers).

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

5 [PR-PC] Work Priorities Plan - Strategic Planning & Urban Design Unit

P 95

Cr W Polglase
Cr P Youngblutt

RECOMMENDED that:

1. The Work Priorities Plan 2015-16 for the Strategic Planning and Urban Design Unit, provided as Figure 1 to this report is adopted.
2. The Unit Coordinator's Project Work Plan 2015-16, provided as Figure 2 to this report, is received and noted.
3. The recommended actions detailed in Table 1 (Projects Removed from the Current Work Plan 2014-15) to this report are adopted.
4. Specifically, planning proposal PP12/0004 (Wardrop Valley) and planning proposal PP12/0002 (Mooball no.2), as listed in Table 2 of this report, are discontinued and the respective Applicants' and the Department of Planning and Environment are to be duly notified.
5. Specifically, and except where there is a prior resolution of the same effect, a planning proposal is to be prepared for each and every planning proposal duly listed in Figure 1 to this report and submitted to the Department of Planning and Environment for a Gateway Determination, nominating any additional studies required and the level of public consultation deemed appropriate.

The Motion was **Carried**

FOR VOTE - Unanimous

6 [PR-PC] Stormwater Issues - Gladioli Avenue and Terranora Road, Terranora

P 96

**Cr W Polglase
Cr P Youngblutt**

RECOMMENDED that Council endorse:

1. The property owners affected by the stormwater impacts of No. 764 Terranora Road, Terranora be advised in writing that Council encourages them to work together to maintain the historically established inter allotment drainage system; and
2. The owners of No. 764 Terranora Road Terranora be advised in writing that Council is not in a position to fund stormwater works within the subject properties.
3. ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

The Motion was **Carried**

FOR VOTE - Unanimous

7 [PR-PC] Stormwater Issues Tweed Shire

P 97

**Cr W Polglase
Cr P Youngblutt**

RECOMMENDED that:

1. A formal Council position be developed and promoted in regard to stormwater and overland flow issues occurring between private properties; and
2. Additionally that this position be adopted to form the basis of an operational procedure and/or be further developed into a policy.

The Motion was **Carried**

FOR VOTE - Unanimous

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

P 98

**Cr W Polglase
Cr P Youngblutt**

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

The Motion was **Carried**

FOR VOTE - Unanimous

ORDERS OF THE DAY

Nil.

CONFIDENTIAL COMMITTEE

P 99

**Cr P Youngblutt
Cr K Milne**

RESOLVED that Planning Committee resolves itself into a Confidential Committee in accordance with Section 10A(2) of the Local Government Act 1993 (as amended) and that the press and public be excluded from the whole of the Committee Meeting, because, in the opinion of the Committee, publicity of the proceedings of the Committee would be prejudicial to the public interest, by reasons of the confidential nature of the business to be transacted.

The Motion was **Carried**

FOR VOTE - Unanimous

CONFIDENTIAL ITEMS FOR CONSIDERATION

EXCLUSION OF PRESS AND PUBLIC

P 100

**Cr P Youngblutt
Cr K Milne**

RESOLVED that Planning Committee resolves itself into a Confidential Committee in accordance with Section 10A(2) of the Local Government Act 1993 (as amended) and that

the press and public be excluded from the whole of the Committee Meeting, because, in the opinion of the Committee, publicity of the proceedings of the Committee would be prejudicial to the public interest, by reasons of the confidential nature of the business to be transacted.

The Motion was **Carried**

FOR VOTE - Unanimous

The General Manager reported that the Confidential Committee had excluded the press and public from the whole of the Committee Meeting because, in the opinion of the Committee, publicity of the proceedings of the Committee would be prejudicial to the public interest, by reason of the confidential nature of the business to be transacted, and made the following recommendations to Council:-

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

C1 [PR-PC] Class 1 Appeal Development Application DA15/0201 for a 20 Lot Subdivision and Associated Works at Lot 156 DP 628026 No. 40 Creek Street, Hastings Point

DECLARATION OF INTEREST

Cr Youngblutt declared a non-pecuniary, non-significant interest in this item. The nature of his interest is that he has family involvement with this application. Cr Youngblutt advised that he will remain in the chamber for discussion and voting on the matter.

REASON FOR CONFIDENTIALITY:

This report discusses legal information that if provided in Open Session could be prejudicial to Council.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) *advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege*

AMENDMENT 1

PC 7

That Council engages its solicitors, and suitable consultants, if required, to defend the deemed refusal appeal for DA15/0201.

The basis of Council's defence includes, but is not limited to, aspects of the following that relate to the current Development Application:

1. The reasons for refusal of the subdivision by the Department of Planning on 9 February 2012.

2. Council's refusal of DA13/0189 on 21 November 2013.
3. Draft amendments to the Hastings Point Locality Plan and Local Environmental Plan 2014 that relate to Council's resolution of 6 November 2014.

FOR VOTE - Cr B Longland, Cr K Milne, Cr G Bagnall

AGAINST VOTE - Cr C Byrne, Cr W Polglase, Cr P Youngblutt

The Amendment was **Carried** on the Casting Vote of the Mayor.

FOR VOTE - Cr B Longland, Cr K Milne, Cr G Bagnall

AGAINST VOTE - Cr C Byrne, Cr W Polglase, Cr P Youngblutt

The Amendment on becoming the Motion was **Carried** on the Casting Vote of the Mayor (Minute No PC 7 refers).

C2 [PR-PC] Unauthorised Works at Site 199, Hacienda Caravan Park, Lot 2 DP 535174 Chinderah Bay Drive, Chinderah

REASON FOR CONFIDENTIALITY:

Potential future legal action.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

PC 8

That Council receives and notes the decision in its favour - citation (2015) NSWLEC 107 – Tweed Shire Council v Furlonger, in the Prosecution of Unauthorised Works at Site 199, Hacienda Caravan Park, Lot 2 DP 535174 Chinderah Bay Drive, Chinderah.

The Motion was **Carried**

FOR VOTE - Unanimous

C3 [PR-PC] Tanglewood Private Sewerage Scheme

REASON FOR CONFIDENTIALITY:

This report is confidential due to potential ongoing legal action.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (a) personnel matters concerning particular individuals (other than councillors).
- (e) information that would, if disclosed, prejudice the maintenance of law.

PC 9

That Council engage its solicitors to review the history of the Tanglewood Estate in regard to the status of the privately operated sewerage system and advise Council of the best course of action for the Review of Determination for SEP14/0104 and the Hillpalm Pty Ltd proposed decommissioning plan for the privately run sewerage system.

The Motion was **Carried**

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

P 101

Cr K Milne
Cr B Longland

RECOMMENDED that the recommendations of the Confidential Committee be adopted.

FOR VOTE - Unanimous

There being no further business the Planning Committee Meeting terminated at 7.36pm.

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