



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 3 March 2016

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 5.01pm.

IN ATTENDANCE

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

Also present were Mr Troy Green (General Manager), Mr Michael Chorlton (Manager Financial Services for Director Corporate Services), Mr David Oxenham (Director Engineering), Mr Vince Connell (Director Planning and Regulation), Ms Tracey Stinson (Director Community and Natural Resources), Mr Neil Baldwin (Manager Corporate Governance) and Ms Ann Mesic (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 General Manager.

APOLOGIES

Nil.

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 DA15/0711 for Additions and Alterations to an Existing Dwelling to Create an Attached Dual Occupancy at Lot 337 DP 755740 No. 19 Queen Street, Fingal Head

P 11

Cr W Polglase
Cr P Youngblutt

RECOMMENDED that Council gives in-principle support for the application and brings back recommended conditions of consent to 7 April 2016 Planning Committee meeting.

AMENDMENT 1

P 12

Cr K Milne
Cr G Bagnall

PROPOSED that a workshop be held for the potential of the application to be approved with the exclusion of the roof deck.

Amendment 1 was **Lost**

FOR VOTE - Cr G Bagnall, Cr K Milne

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

The Motion was **Carried** (Minute No P 11 refers).

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

AGAINST VOTE - Cr G Bagnall, Cr K Milne

- 2 [PR-PC] Development Application DA15/0716 for the Demolition of an Existing Dwelling and Construction of a Residential Flat Building at Lot 5 DP 1104481 No. 4 Hungerford Lane, Kingscliff

P 13

Cr K Milne
Cr G Bagnall

RECOMMENDED the applicant be requested to amend their plans to provide for a design that is compliant with Council's planning controls, provides for a reduced visual impact for the neighbours and from the coastal creek reserve, including but not limited to, a design that steps across the site and down the slope.

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

FOR VOTE - Cr G Bagnall, Cr K Milne, Cr C Byrne

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

- 3 [PR-PC] Class 1 Appeal Development Application DA15/0742 for the Conversion of a Boathouse to a Combined Boathouse and Dwelling at Lot 602 DP 1098619 Point Break Circuit, Kingscliff**

P 14

Cr W Polglase

Cr P Youngblutt

RECOMMENDED that Council's solicitors be engaged to defend the appeal for Development Application DA15/0742 for the conversion of a boathouse to a combined boathouse and dwelling at Lot 602 DP 1098619; Point Break Circuit Kingscliff.

The Motion was **Carried**

FOR VOTE - Unanimous

- 4 [PR-PC] Schedule 1, Additional Permitted Uses - LEP Amendment No.22, for a 'Dwelling House' on Lot 8 DP 12676 at Eviron Road, Eviron**

P 15

Cr W Polglase

Cr C Byrne

RECOMMENDED that:

1. A planning proposal pursuant to s.55 of the *Environmental Planning and Assessment Act 1979*, seeking to facilitate development of a dwelling house on Lot 8 DP 12676, at Eviron Road, Eviron be prepared and submitted for a Gateway Determination, as administered by the NSW Department of Planning & Environment;
2. The Minister for Planning or their Delegate be advised that Tweed Council is not seeking plan making delegations for the planning proposal;
3. The Minister for Planning or their Delegate be advised that the minimum exhibition period for this Planning Proposal should be 14 days;
4. On receipt of the Minister's Gateway Determination Notice to proceed any 'conditional' requirements of the Minister and any other study or work required by Council for the purpose of making a determination of the lands suitability are to be completed, and included within the public exhibition material;

5. That the planning proposal be publicly exhibited in accordance with the Gateway Determination; and
6. Following public exhibition of the Planning Proposal a report is to be submitted to Council detailing the content of submissions received and any proposed amendment(s).

AMENDMENT 1

P 16

**Cr K Milne
Cr G Bagnall**

PROPOSED to defer consideration of this report and seek further information from Council staff.

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

The Motion was **Carried** (Minute No P 15 refers).

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

AGAINST VOTE - Cr K Milne, Cr B Bagnall

5 [PR-PC] Tweed Development Control Plan 2008 - Section A1 Residential and Tourist Development Code (Part B Additional Site Specific Controls - Seaside City)

P 17

**Cr W Polglase
Cr P Youngblutt**

RECOMMENDED that:

1. Draft Tweed Development Control Plan Section A1 – Residential and Tourist Development Code, provided as Attachment 2 to this report, and as amended by the Director Planning and Regulation’s Memorandum of 3 March 2016, is adopted, and
2. The Tweed Development Control Plan as amended is to be publicly notified in accordance with Regulation 21 of the Environmental Planning and Assessment Regulation 2000, and is take effect from the first day of publication.
3. Public notice of Council’s intention to repeal Tweed Development Control Plan, Section B11 – Seaside City, it to be given in accordance with Regulations 22(2) and 23 of the Environmental Planning and Assessment Regulation 2000, and

4. Should a public submission be received during the notice of intention to repeal (s.22(2)) the Director Planning and Regulation is to make a determination about whether the submission raises a new issue not previously reported to Council and must report the issue to a meeting of the Planning Committee if that determination is affirmative of the issue raised, but otherwise is to publish the notice of repeal (s.23).
5. A copy of the amended Tweed Development Control Plan Section A1 – Residential and Tourist Development Code is to be forwarded to the Secretary of the NSW Department of Planning and Environment in accordance with Regulation 25AB of the Environmental Planning and Assessment Regulation 2000.

The Motion was **Carried**

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

AGAINST VOTE - Cr G Bagnall, Cr K Milne

6 [PR-PC] Draft Tweed Development Control Plan Section A18 - Heritage

P 18

Cr P Youngblutt

Cr K Milne

RECOMMENDED that:

1. Draft Tweed Development Control Plan, Section A18 – Heritage, is to be publically exhibited for a period of 42 days;
2. During the public exhibition a minimum of two public engagement forums are to be conducted by staff at a suitable location(s) reasonably accessible to Landowners of heritage items or that are within a heritage conservation area; and
3. Following public exhibition a further report is to be submitted to Council detailing the content and response of submissions received.

The Motion was **Carried**

FOR VOTE - Unanimous

7 [PR-PC] Rural Land Strategy - Policy Directions Paper Stage 3 Options Paper & Public Submission Review

P 19

**Cr W Polglase
Cr P Youngblutt**

RECOMMENDED that this report on the public exhibition of the Rural Land Strategy Stage 3 Options Paper be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

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

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**Cr C Byrne
Cr K Milne**

RECOMMENDED that Council notes there are no variations for the month of February 2016 to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

There being no further business the Planning Committee Meeting terminated at 5.32pm.

