



**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 6 October 2016

held at **Harvard Room, Tweed Heads Administration Building, Brett Street, Tweed Heads** 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 and Cr W Polglase.

Also present were Ms Tracey Stinson (Acting General Manager), Ms Liz Collyer (Director Corporate Services), Mr David Oxenham (Director Engineering), Mr Vince Connell (Director Planning and Regulation), 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 Deputy Mayor.

### **APOLOGIES**

Attendee Cr P Youngblutt has informed the Acting General Manager that his absence is caused by illness.

### **P 90**

**Cr C Byrne**  
**Cr K Milne**

**RESOLVED** that the apology of Cr P Youngblutt be accepted and the necessary leave of absence be granted.

The Motion was **Carried**

**FOR VOTE - Unanimous**

### **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 DA10/0737 for Alterations to Existing Highway Service Centre Comprising of Two (2) New Diesel Refuelling Points Expansion of Truck Refuelling Canopy New Truck Parking Area (30 New Bays) and the Replacement of Existing Truck Parking Area With Additional Car Parking Spaces and Dedicated Bus Drop-off Area (Application Includes LEP Amendment PP15/0001) at Lot 1 DP 1127741 & Lot 2 DP 1010771 No. 1 Ozone Street, Chinderah

**P 91**

**Cr C Byrne**  
**Cr B Longland**

**RECOMMENDED** that Development Application DA10/0737 for alterations to existing highway service centre comprising of two (2) new diesel refuelling points expansion of truck refuelling canopy new truck parking area (36 new bays) and the replacement of existing truck parking area with additional car parking spaces and dedicated bus drop-off area (application includes LEP Amendment PP15/0001) at Lot 1 DP 1127741 & Lot 2 DP 1010771; No. 1 Ozone Street Chinderah be refused for the following reasons:

1. Pursuant to Section 79C (1) (b) the proposal is considered to create a significant impact on the natural environment. The proposal is considered to create adverse impacts on koala habitat, due to the removal of koala habitat.
2. Pursuant to Section 79C (1) (b) the proposal is considered to create an unacceptable impact on the built environment. The proposal is considered to create an adverse impact on adjoining residential properties in relation to increased noise due to the increasing number of trucks breaking to enter the site.
3. Pursuant to Section 79C (1) (e) the proposed development is considered not to be within the public interest. The proposal is contrary to the provisions of the Tweed Coast Comprehensive Koala Plan of Management. The proposal is inconsistent with the provisions in relation to the identification of preferred koala habitat and offsets.

The Motion was **Carried**

**FOR VOTE - Unanimous**

**ABSENT. DID NOT VOTE - Cr P Youngblutt**

**2 [PR-PC] Rural Land Strategy - Stage 3a Policy Directions Paper Public Consultation Review and Commencement of Stage 4**

**P 92**

**Cr C Byrne**  
**Cr K Milne**

**RECOMMENDED** that Council:

1. Receive and note the report and summary of submissions received in respect of the recent public exhibition of the draft Rural Lands Policy Directions Paper; and
2. Adopts the draft Policy Direction Papers, as exhibited, and the policy directions provided are to guide the direction and deliverables of a new draft Rural Lands Strategy document.

The Motion was **Carried**

***FOR VOTE - Unanimous***  
***ABSENT. DID NOT VOTE - Cr P Youngblutt***

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**3 [PR-PC] Environmental Damage and Unauthorised Works at Lot 469 DP 1144944 off Henry Lawson Drive, Terranora**

**P 93**

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

**RECOMMENDED** that Council:

- a. Receive and note this report; and
- b. Engage solicitors to seek advice on options for action in respect of alleged unauthorised earthworks and stockpiles (causing damage to marine vegetation) at Lot 469 DP 1144944, off Henry Lawson Drive Terranora.

**AMENDMENT 1**

**P 94**

**Cr C Byrne  
Cr W Polglase**

**PROPOSED** that Council:

- a. Receive and note this report; and
- b. Note that a further report will be submitted to Council following a response from the owner and proponents of alleged unauthorised earthworks and stockpiles (causing damage to marine vegetation) at Lot 469 DP 1144944, off Henry Lawson Drive Terranora.

Amendment 1 was **Lost**

**FOR VOTE - Cr C Byrne, Cr W Polglase  
AGAINST VOTE - Cr B Longland, Cr G Bagnall, Cr K Milne  
ABSENT. DID NOT VOTE - Cr P Youngblutt**

The Motion was **Carried** (Minute No. P93 refers)

**FOR VOTE - Cr B Longland, Cr G Bagnall, Cr K Milne  
AGAINST VOTE - Cr C Byrne, Cr W Polglase  
ABSENT. DID NOT VOTE - Cr P Youngblutt**

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**4 [PR-PC] Environmental Damage and Unauthorised Works at Lot 12 DP 1163855 Fraser Drive, Tweed Heads South**

**P 95**

**Cr C Byrne  
Cr B Longland**

**RECOMMENDED** that Council engage solicitors to seek advice on options for action in respect of alleged unauthorised removal of vegetation in respect of the current subdivision construction works at Lot 12 DP 1163855, Fraser Drive Tweed Heads South.

The Motion was **Carried**

**FOR VOTE - Unanimous  
ABSENT. DID NOT VOTE - Cr P Youngblutt**

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

**P 96**

**Cr C Byrne**  
**Cr K Milne**

**RECOMMENDED** that Council notes the September 2016 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

***FOR VOTE - Unanimous***  
***ABSENT. DID NOT VOTE - Cr P Youngblutt***

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

