



TWEED
SHIRE COUNCIL

Mayor: Cr Warren Polglase

Councillors: P Youngblutt (Deputy Mayor)
D Holdom
B Longland
K Milne
K Skinner
J van Lieshout

Minutes

Planning and Regulation Reports

Ordinary Council Meeting

Tuesday 19 January 2010

held at Murwillumbah Cultural & Civic Centre
commencing at 4.30pm

COUNCIL'S CHARTER

Tweed Shire Council's charter comprises a set of principles that are to guide Council in the carrying out of its functions, in accordance with Section 8 of the Local Government Act, 1993.

Tweed Shire Council has the following charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;
- to exercise community leadership;
- to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism;
- to promote and to provide and plan for the needs of children;
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development;
- to have regard to the long term and cumulative effects of its decisions;
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible;
- to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government;
- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants;
- to keep the local community and the State government (and through it, the wider community) informed about its activities;
- to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected;
- to be a responsible employer.

The Meeting commenced at 4.30pm.

IN ATTENDANCE

Cr W Polglase (Mayor), Cr P Youngblutt (Deputy Mayor), Cr Dot Holdom, Cr B Longland, Cr Katie Milne, Cr Kevin Skinner, Cr Joan van Lieshout.

Also present were Mr Mike Rayner (General Manager), Mr Troy Green (Director Technology & Corporate Services), Mr Patrick Knight (Director Engineering & Operations), Mr Vince Connell (Director Planning & Regulation), Mr David Oxenham (Director Community & Natural Resources), Mr Neil Baldwin (Manager Corporate Governance/Public Officer) and Mrs Meredith Smith (Minutes Secretary).

ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

4 [PR-CM] Development Application DA09/0747 for a Dwelling and Swimming Pool at Lot 13 DP 1043036, Terranora Road, Terranora

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**Cr D Holdom
Cr B Longland**

RESOLVED that: -

1. Council assumes the concurrence of the Director-General of the Department of Planning for the approval of the SEPP 1 objection to vary the thirty metre building setback requirement.
2. Development Application DA09/0747 for a dwelling and swimming pool at Lot 13 DP 1043036, Terranora Road, Terranora be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 2/609 prepared by PFK Building Design and dated June 09, except where varied by the conditions of this consent.

2. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.

[GEN0015]

3. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property.

[GEN0135]

4. The proposed fence between the front of the dwelling and the front property boundary shall be no higher than 1.50 m without separate Council approval.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0945]

PRIOR TO COMMENCEMENT OF WORK

6. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

7. The erection of a building in accordance with a development consent must not be commenced until:
 - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:

- (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
- (ii) notified the principal certifying authority of any such appointment, and
- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

8. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

9. Residential building work:

- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:

- * in the name and licence number of the principal contractor, and
- * the name of the insurer by which the work is insured under Part 6 of that Act,

- (ii) in the case of work to be done by an owner-builder:

- * the name of the owner-builder, and
- * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

10. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:-

- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

11. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent

position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

12. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

This sign is to remain in position for the duration of the project.

[PCW0985]

13. All roof waters are to be disposed of through properly jointed pipes to the street gutter, to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2.

[PCW1005]

14. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

DURING CONSTRUCTION

15. All proposed works are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.

[DUR0005]

16. Construction and/or demolition site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

17. The roof cladding is to have low reflectivity where it would otherwise cause nuisance to the occupants of buildings with direct line of sight to the proposed building.

[DUR0245]

18. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

19. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

20. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

21. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.

[DUR0415]

22. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan Part A1 to the satisfaction of the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0835]

23. All retaining walls proposed are to be constructed in accordance with the construction Certificate approval issued by the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0845]

24. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.

[DUR0905]

25. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- dust during excavation operations and also from construction vehicles

- material removed from the site by wind
[DUR1005]
26. No portion of the structure may be erected over the existing stormwater drainage easement located inside the western property boundary.
[DUR1945]
27. Swimming Pools (Building)
- (a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 – 2007 & AS 1926.3 - 2003. (Refer Council's web site www.tweed.nsw.gov.au)
 - (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
 - (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
 - (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.
[DUR2075]
28. Backwash from the swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.
[DUR2085]
29. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction/demolition.
[DUR2185]
30. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
 - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - (c) external drainage prior to backfilling.
 - (d) completion of work and prior to occupation of the building.
[DUR2485]
31. Plumbing
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
 - (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
[DUR2495]
32. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
[DUR2515]
33. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

[DUR2545]

34. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- * 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50°C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR2555]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

35. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

36. Prior to the issue of an occupation certificate,
- (a) Certification of termite protection methods performed by the person carrying out the works is to be submitted to the PCA; and
 - (b) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
 - (i) the method of protection; and
 - (ii) the date of installation of the system; and
 - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
 - (iv) the need to maintain and inspect the system on a regular basis.

[POC0235]

37. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

The street number is to be on a white reflective background professionally painted in black numbers 100mm high.

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0265]

38. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to

identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

39. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

40. Prior to the issue of an occupation certificate the windows in the southern wall of the first floor storage loft shall be provided with permanent privacy screens which will restrict direct visual contact between this area and the adjoining allotment to the south.

[POCNS01]

USE

41. Swimming Pools (Building)

- (a) It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing (Section 7 Swimming Pool Act 1992).
- (b) The resuscitation poster must be permanently displayed in close proximity to the swimming pool (Section 17 Swimming Pool Act 1992).
- (c) Warning notices required under Part 3 of the Swimming Pool Regulations 2008 shall be maintained at all times.

[USE1295]

42. The swimming pool is not to be used for commercial purposes without prior Development Consent.

[USE1305]

The Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr B Longland, Cr J van Lieshout, Cr W Polglase

AGAINST VOTE - Cr K Milne

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

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**Cr D Holdom
Cr P Youngblutt**

RESOLVED that Council notes the December 2009 Variations to Development Standards under State Environmental Planning Policy No 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

**a5 [PR-CM] Cobaki Lakes Concept Plan – Residential Community Development
- Council Submission to the Department of Planning**

26

**Cr B Longland
Cr D Holdom**

PROPOSED that: -

1. Council endorses the attached draft submission to the Department of Planning on the Preferred Project Report for Cobaki Lakes.
2. The applicant provides further evidence to demonstrate that removal of Scribbly Gums on the Cobaki Lakes development site has been carried out lawfully. The details of any response from the applicant will be reported back to Council to determine whether any compliance action is necessary.

Cr W Polglase

RESOLVED that Standing Orders be suspended for 10 minutes to allow Councillors time to consider proposed amendments, submitted by Cr K Milne, to Item a5 of the Agenda

The Motion was **Carried**

FOR VOTE - Unanimous

27

Cr W Polglase

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

On the advice of the General Manager, the meeting consensus was to allow Cr K Milne five (5) minutes to speak on her proposed motions in total after which Council would consider and vote on each motion with a view to including them in an Amendment which would endorse the resolved motions for attachment to the draft submission to the Department of Planning on the Preferred Project Report for Cobaki Lakes.

28

Cr K Milne
Cr B Longland

RESOLVED that the following proposed motion be endorsed for inclusion in the attached draft submission to the Department of Planning on the Preferred Project Report for Cobaki Lakes.:-

1. Inadequate Community Consultation

Community consultation was offered through Resident Association groups or individual organisations. This did not provide for participation for the general public, who are generally not members or in the networks of these organisations.

The lack of public meetings prevented any communication across the different sectors of the community to enable the exchange of information.
This standard is not acceptable on such a large and sensitive development.

An independent and appropriately qualified consultant should be commissioned to undertake a full and thorough consultation process.

A series of public meetings and workshops should be undertaken with presentations to include for example flood modelling, filling, water demand, road infrastructure, community and open space provisions, and cumulative impacts.

The Motion was **Carried**

FOR VOTE - Cr K Skinner, Cr B Longland, Cr K Milne, Cr J van Lieshout
AGAINST VOTE - Cr P Youngblutt, Cr D Holdom, Cr W Polglase

29

Cr K Milne
Cr D Holdom

PROPOSED that the following be endorsed for inclusion in the attached draft submission to the Department of Planning on the Preferred Project Report for Cobaki Lakes.:-

2. Aboriginal Cultural Landscape

A Cultural Heritage Management Plan has not been finalised contrary to what is indicated in the response to submissions. Consideration of a concept plan without this report does not demonstrate Cultural sensitivity and is not appropriate.

A preliminary excavation study over approximately 1% of the site has revealed approximately 3000 Aboriginal artefacts. This site is part of an overall Cultural Landscape that has already been severely affected by the Tugun Bypass.

This locality is historically a large camping site and in modern terms would be considered to be a township. Ridgelines contain the old pathways and should remain vegetated. There are few other places known in the Tweed that have such a significant degree of heritage or that provide such an opportunity to preserve a series of sites, as identified as a priority in the DECC guidelines.

These matters must be considered as a fundamental aspect in the Concept Plan and all efforts made to preserve this highly significant Cultural Landscape.

A section 94 development contributions plan should be considered for this site to provide for the preservation of Aboriginal Cultural Heritage.

The Motion was **Lost**

FOR VOTE - Cr K Milne

AGAINST VOTE - Cr P Youngblutt, Cr D Holdom, Cr K Skinner, Cr B Longland, Cr J van Lieshout, Cr W Polglase

THE PROPOSED MOTIONS NUMBERED 3-7 INCLUSIVE LAPSED AS THERE WAS NO SECONDER.

30

Cr K Milne

Cr D Holdom

RESOLVED that the following be endorsed for inclusion in the attached draft submission to the Department of Planning on the Preferred Project Report for Cobaki Lakes.:-

8. Youth Friendly Planning

Activities for youth must be fundamental to the Concept Plan.

The Motion was **Carried**

FOR VOTE - Cr D Holdom, Cr K Skinner, Cr B Longland, Cr K Milne, Cr J van Lieshout, Cr W Polglase

AGAINST VOTE - Cr P Youngblutt

31

Cr K Milne
Cr J van Lieshout

RESOLVED that the following be endorsed for inclusion in the attached draft submission to the Department of Planning on the Preferred Project Report for Cobaki Lakes.:-

9. Seniors Friendly Planning

Provision of outdoor activities such as fitness trails is essential.
Footpaths wide enough for scooters must be provided.

The Motion was **Carried**

FOR VOTE - Cr D Holdom, Cr K Skinner, Cr B Longland, Cr K Milne, Cr J van Lieshout
AGAINST VOTE - Cr P Youngblutt, Cr W Polglase

THE PROPOSED MOTIONS NUMBERED 10-17 INCLUSIVE LAPSED AS THERE WAS NO SECONDER.

32

AMENDMENT

Cr K Milne
Cr B Longland

RESOLVED that: -

1. Council endorses the attached draft submission to the Department of Planning on the Preferred Project Report for Cobaki Lakes.
2. The applicant provides further evidence to demonstrate that removal of Scribbly Gums on the Cobaki Lakes development site has been carried out lawfully. The details of any response from the applicant will be reported back to Council to determine whether any compliance action is necessary.
3. The following motions, previously endorsed by the majority vote of Council, be attached to the draft submission to the Department of Planning on the Preferred Project Report for Cobaki Lakes.:-

1. Inadequate Community Consultation

Community consultation was offered through Resident Association groups or individual organisations. This did not provide for participation for the general public, who are generally not members or in the networks of these organisations.

The lack of public meetings prevented any communication across the different sectors of the community to enable the exchange of information.

This standard is not acceptable on such a large and sensitive development.

An independent and appropriately qualified consultant should be commissioned to undertake a full and thorough consultation process.

A series of public meetings and workshops should be undertaken with presentations to include for example flood modelling, filling, water demand, road infrastructure, community and open space provisions, and cumulative impacts.

8. Youth Friendly Planning

Activities for youth must be fundamental to the Concept Plan.

9. Seniors Friendly Planning

Provision of outdoor activities such as fitness trails is essential.
Footpaths wide enough for scooters must be provided.

The Amendment was **Carried** (Minute Number 32 refers).

FOR VOTE - Cr D Holdom, Cr K Skinner, Cr B Longland, Cr K Milne, Cr J van Lieshout, Cr W Polglase

AGAINST VOTE - Cr P Youngblutt

The Amendment on becoming the Motion was **Carried**.

FOR VOTE - Unanimous



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