



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 2 June 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 5.00pm.

IN ATTENDANCE

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), Ms Liz Collyer (Director Corporate Services), Mr David Oxenham (Director Engineering), Mr Vince Connell (Director Planning and Regulation), Ms Robyn Grigg (Acting 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 Deputy 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

Note from 19 May 2016

Cr K Milne (Mayor) was granted a leave of absence up to 27 June 2016 in accordance with Section 234(1)(d) of the Local Government Act, 1993 at Council Meeting held Thursday 19 May 2016 at Minute No 226.

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 DA03/0445.04 for an Amendment to Development Consent DA03/0445 for Use of an Existing Stock & Domestic Water Bore for the Purpose of a Rural Industry Comprising the Harvesting & Bottling of Mineral Water at Lot 1 DP 735658 No. 477 Uriup Road, Bilambil

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Cr W Polglase
Cr P Youngblutt

RECOMMENDED that Development Application DA03/0445.04 for an amendment to Development Consent DA03/0445 for use of an existing stock & domestic water bore for the purpose of a rural industry comprising the harvesting & bottling of mineral water at Lot 1 DP 735658 No. 477 Uriup Road, Bilambil be amended as follows:

1. Delete Condition 2A and replace it with Condition 2B which reads as follows:

2B. The hours of operation and deliveries are:

- Monday to Friday 7.00am to 6.00pm.
- Saturday and Sunday 8.00am – 6.00pm

[GENNS01]

2. Delete Condition 4A and replace it with Condition 4B which reads as follows:

4B. Daily delivery movements are restricted to 12 trips per day.

[GENNS03]

3. Delete Condition 15 and replace it with Condition 15A which reads as follows:

15A. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Prior to the commencement of the increased daily operation, all Section 94 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

These charges include indexation provided for in the S94 Plan and will remain fixed for a period of 12 months from the date of the original consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

(a) DA03/0445.02 Paid

Tweed Road Contribution Plan:
4.8 Trips @ \$3065 per Trips \$14,712
(\$2,928 base rate + \$137 indexation)
S94 Plan No. 4
Sector12a_4

(b) DA03/0445.04 (to be paid prior to operating in accordance with this modification)

Tweed Road Contribution Plan:
1.2 Trips @ \$3080 per Trips \$3,696
(\$2,928 base rate + \$152 indexation)
S94 Plan No. 4
Sector12a_4

[POC0395/PSC0175]

AMENDMENT 1

P 43

**Cr B Longland
Cr G Bagnall**

PROPOSED that Development Application DA03/0445.04 for an amendment to Development Consent DA03/0445 for use of an existing stock & domestic water bore for the purpose of a rural industry comprising the harvesting & bottling of mineral water at Lot 1 DP 735658 No. 477 Uriup Road, Bilambil be amended as follows:

1. Delete Condition 2A and replace it with Condition 2B which reads as follows:

2B. The hours of operation and deliveries are:
• Monday to Friday 7.00am to 6.00pm.

[GENNS01]

2. Delete Condition 4A and replace it with Condition 4B which reads as follows:

4B. Daily delivery movements are restricted to 10 trips per day.

[GENNS03]

3. Delete Condition 15 and replace it with Condition 15A which reads as follows:

15A. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Prior to the commencement of the increased daily operation, all Section 94 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

These charges include indexation provided for in the S94 Plan and will remain fixed for a period of 12 months from the date of the original consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

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Sector12a_4

[POC0395/PSC0175]

Amendment 1 was **Lost**

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

AMENDMENT 2

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Cr G Bagnall
Cr B Longland

PROPOSED that the item be deferred to the Council Meeting of 16 June 2016 for consideration.

Amendment 2 was **Lost**

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

The Motion was **Carried** (Minute No P42 refers)

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

2 [PR-PC] Housekeeping and Minor Policy Amendment LEP

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Cr W Polglase
Cr G Bagnall

RECOMMENDED that:

1. The public submission summary and Officer's response is noted; and
2. The Planning Proposal PP15/0008 is approved and is to be referred to the NSW Minister for Planning with a request that the Plan be made under s.59 of the *Environmental Planning and Assessment Act 1979*, at the earliest time.

The Motion was **Carried**

FOR VOTE - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

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

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Cr W Polglase
Cr P Youngblutt

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

The Motion was **Carried**

FOR VOTE - Unanimous
ABSENT. DID NOT VOTE - Cr K Milne

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Cr P Youngblutt
Cr G Bagnall

RESOLVED that the Committee resumes in Open Council.

The Motion was **Carried**

FOR VOTE - Unanimous

There being no further business the Planning Committee Meeting terminated at 5.13pm.

