

Minutes of the Aboriginal Advisory Committee Meeting held Friday 5 August 2011

Venue:

Minjungbal Museum Meeting Room, cnr Kirkwood Road and Duffy Street, Tweed Heads South

Time:

9.30am

Present:

Jackie McDonald (Tweed Wollumbin AECG); Garth Lena (Minjungbal Community); Des Williams (Tweed Byron Local Aboriginal Land Council); Leween Williams (Tweed Aboriginal Corporation for Sport); Aunty Joyce Summers (Canowindra Aged and Disability Cooperative); David Oxenham (Tweed Shire Council)

Ex-officio:

Anne McLean and Jenni Clarke (Minutes); (Tweed Shire Council)

Guest Observers:

Tim Robins (Everick Heritage Consultants) (arrived 9.38am); Ron Naden (Green Teams Alliance) (arrived 9.42am); Phil Fogarty (LPMA) (arrived 10.58am); Vince Connell, Robyn Eisermann (TSC), Matt Alexander (Ainsworth Heritage) (arrived 1.06pm)

Apologies:

Desrae Rotumah (Tweed Aboriginal Cooperative); Cr Dot Holdom (Tweed Shire Council)

Chair:

Moved: Jackie McDonald

Seconded: Joyce Summers

RESOLVED that the Chair was declared vacant and nominations were called. Des Williams was nominated and was unanimously elected to Chair the meeting.

Des Williams opened the meeting with a welcome to all present and paid respect to Elders past and present.

Minutes of Previous Meeting:

Moved: Garth Lena

Seconded: Jackie McDonald

RESOLVED that the Minutes of the Aboriginal Advisory Committee meeting held Friday 1 July 2011 be accepted as a true and accurate record of the proceedings of that meeting.

Amendment proposed to page 2 of the Minutes of 3 June 2011, item G3 third paragraph:

"Cr Holdom advised that there is also a possible active koala *habitat* on the site."

Amendment proposed to page 3 of the Minutes of 1 July 2011, item O10 second line:

"Jackie advised that the RTA were not prepared to pay for costs for the *concept designs* for artwork and therefore a local artist would not be engaged."

Agenda Items:

O1. Outstanding Matters Report

Due to time constraints Outstanding Matters were deferred until the next meeting.

A1. Boyd's Bay Garden Centre, Tweed Heads and World Riva Vue, Murwillumbah (Tim Robins - Everick Heritage Consultants)

Tim Robins arrived at 9.38am

Tim Robins from Everick Heritage Consultants thanked the Committee for extending him an invitation and advised that the purpose of his visit was to discuss the Boyd's Bay Garden Centre, Tweed Heads and Riva Vue, Murwillumbah Reports which have been prepared under the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales Guidelines* and were tabled at the previous meeting held on 1 July 2011.

The Committee held a discussion regarding the Guidelines.

Jackie suggested that there needs to be an opportunity to workshop the Guidelines. David Oxenham advised that representatives from Tweed Shire Council will be attending the AAC meeting later in the day and suggested that the Committee wait until after that discussion to plan a workshop. He advised that the recommendation from the previous Committee meeting regarding engaging a professional Heritage Consultant to undertake an analysis of the Guidelines has not yet been submitted to Council.

Tim asked if the Committee is aware of any significant site artefacts that may be impacted with development of these sites.

a) Boyd's Bay Garden Centre

Fill will be imported to the site on to land which has already been significantly disturbed.

b) Riva Vue, Murwillumbah

The apex of the hill has been excavated.

Des advised that there is no Legislation that requires sub-surface search before development occurs.

Tim advised that the reports will be submitted with the development application and future development will be subject to these reports and advised that any recommendations are proportional to the site and not too onerous.

Minutes

Jackie advised that Aboriginal values extend to the plant species as well and that this site adjoins the known cultural landscape identified in the Cobaki Lakes area.

The committee advised they need more time to consider the reports after discussions have been held with TSC Planning staff.

Action: *In regards to Due Diligence Assessment for Boyds Bay Garden Centre the Committee advised Everick that a stronger statement is needed regarding the importance of the site as part of a broader cultural landscape.*

Tim Robins left at 10.10am

A2. Green Teams Alliance (Ron Naden)

Ron Naden arrived at 9.42

Ron Naden of the Green Teams Alliance (GTA) acknowledged the custodians of the land past and present.

Ron provided an update to the Committee on the MOU between GTA and TSC:

- Meeting held with TSC in June 2011 regarding capacity of the GTA to meet the requirements of providing maintenance to the Jack Evans Boat Harbour Park when the project goes out to Tender.
- Meeting held with TSC on 18 July to progress the MOU. At that meeting TSC indicated an MOU is not likely at this time but a selective tender process for maintenance of Jack Evans Boat Harbour is probable. Green Teams will be in a position to respond to the tender if called which will specifically provide indigenous training and employment. The possibility of direct traineeships was also discussed with Council but this would exclude expertise of Green Teams.
- Waiting on TSC to provide a decision, Committee will be kept informed of progress.
- ETC Enterprise and Training company (Coffs Harbour) is engaged by Green Teams has an indigenous enterprise development program. Currently enrolling 20 Aboriginal people in programs in the Richmond.
- GTA currently have in excess of 35 teams with the majority being located in the Hunter region linking to mining companies such as GHD.
- Four scholarships per year are made available.
- Priority for GTA to be incubators for local groups to be skilled up and manage their own projects. GTA provides governance such as up skilling and OH&S.
- Where a gap in skills for Tweed area is identified an Aboriginal person from another Green Team may be able to train them by mentoring and sharing skills.

Action: *GTA staff members to be invited to October meeting to meet Committee.*

Ron Naden left at 10.50am

A3. Update on LPMA Projects (Phil Fogarty - LPMA)

Phil Fogarty arrived at 10.58am

Minutes

Phil Fogarty provided an overview of Land and Property Management (LPMA) projects as a result of the Plan of Management for Tweed Coast and discussed Native Title impact on projects.

Minutes were not recorded in detail. Open discussion was held.

*Phil Fogarty left at 11.54am
David Oxenham left at 11.59am*

Inwards Correspondence

IC1. Proposed new signage for Pottsville Environment Park

Action: *Committee to review tabled document and provide feedback at the next meeting.*

IC2. Kennedy Drive Cycleway

A visual image was tabled of the test drill location for the Kennedy Drive Cycleway Project.

The following information provided by Council was read out to the Committee.

"To develop a design for one section of the cycleway, Council needs to organise for some test piles to be drilled on a section of steep bank in the vicinity of Second Street. The drilling would establish the geotechnical parameters to allow for further design.

Works required for geotechnical investigation are exempt from planning approvals under the State Environmental Planning Policy (Infrastructure) subject to these works being of minimal environmental impact. Council would like to advise the AAC that a cultural monitor is not considered to be required for this preliminary drilling of test holes for the following reasons:

- The holes are into rock and road fill at the top of a steep bank in the vicinity of Kennedy Drive and Second Street.*
- No earthworks are required."*

The Committee advised that no Monitor is required at this stage but that they are to be advised of further excavations.

Action: *David Hannah to advise Committee of further excavations.*

IC3. Proposed Park Name – "Cudgera Creek Park" – Hastings Point

Action: *Committee members to take tabled document to their respective Boards for comment.*

IC4. Banora Point Upgrade - Laura Street Bridge Artwork

The Committee discussed the tabled images of the Laura Street Bridge artwork that came about from the last Aboriginal Focus Group (AFG) meeting.

Moved: Aunty Joyce Summers

Seconded: Leweena Williams

RESOLVED that the Laura Street Bridge Artwork submitted through the Aboriginal Focus Group (AFG) from the Banora Point Upgrade Alliance (BPUA) be:

1. Accepted for the southern approach artwork.
2. Modified on the northern approach artwork as follows:
 - a) The shape of pelican be changed to broadside facing left with extended wingspan indicating they are coming in to land.
 - b) That the goanna and building skyline be removed from the artwork.
 - c) That more birds are inserted on two other panels and to include one black crow.
 - d) That the figure be removed from panel three.

IC5. Banora Point Upgrade - Naming of viaduct

Anne read out the response provided by Garry McPherson from the Banora Point Upgrade Alliance requesting clarification of nomination of the name for the viaduct.

A reply letter is to be drafted to RTA on behalf of the AAC Committee which will note the name represents the name of clan that occupied the coastal area, the process the Committee went through to agree to the name and a copy of the AAC Terms of Reference.

Action: *Letter to be forwarded to RTA on behalf of AAC under signature of David Oxenham*

Agenda Items

A4. Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales Guidelines

Vince Connell, Robyn Eisermann, Matt Alexander arrived at 1.06pm

Robyn Eisermann of TSC outlined the processes that are used with *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales Guidelines* and provided a background of the planning proposals in place for rezoning applications.

- The Code is a new process which came into effect in September 2010.
- As the process is new, current reports are being peer reviewed by Ainsworth Heritage who were engaged under an Expressions of Interest (EOI) process to review due diligence reports submitted with in association with a planning proposal.
- The Code applies to Development Applications and Rezoning Applications. (Part 4 and Part 5 of the Environmental Assessment Act)
- The Code is generic and is used to determine the likelihood of Aboriginal cultural heritage on site and if further cultural heritage assessment is required.
- The generic due diligence assessment process flowchart was tabled.
- Essentially a desk-top assessment. There is no formal requirement to consult with Aboriginal people though it is recommended.
- Peer review will recommend if further consultation is required.

- Development Application should trigger further consultation and assessment.
- Bulk of planning proposals require public exhibition of 28 days and public submissions are invited.

Matt Alexander of Ainsworth Heritage advised:

- The Code is endeavouring to allow developers to proceed without on-ground consultation.
- The Code recommends consultation but does not require it.
- TSC are recommending to proponents to seek advice from Lands Council to see if significant sites are present.
- If a site is disturbed, and artefacts are found at a later date, a development proponent can be prosecuted with stronger penalties if deemed not to have complied with the Code requirements.
 - Council could request landscape analysis as an additional step.
 - The landscape analysis is currently the fourth step and is not required if the site has evidence of disturbance.

The Committee raised concerns regarding developers only being required to do a "desktop" assessment and provided the example of the National Parks Mapping System which is flawed in that sites shown on the mapping system in relation to today's map configuration put sites 100m away from the correct site. With a "desktop" study developers would not know about existing sites. In current Legislation there is a safeguard when developers destroy existing sites, if there is no Aboriginal Monitor on site developers could come across history and there would be no safeguards in place. Lack of visual evidence does not remove anthropological importance.

Jackie advised that if the Cobaki Lakes development was done as a "desktop" study only, the community would not have been informed about the importance of the site. The site was considered disturbed and regardless of the disturbance; unique artefacts were identified and recorded for future generations. Evidence would have been lost without detailed reports being prepared. It is not just physical evidence, spiritual connection is relevant also.

Des and Jackie discussed an example of a site like Boyds Bay. If a thorough check of a site is undertaken including subsurface analysis, it forms part of the cultural landscape for future generations. If this site is filled and later developed, while possible preserved, the history is lost.

Vince advised that Council can require that developers undertake additional steps under the Local Environmental Plan (LEP). He suggested he could come back to the Committee with a recommended process proposal which would include consultation with the Committee.

Action: *Vince to attend Committee meeting with suggested process proposal.*

Matt Alexander left at 1.56pm

A5. Funding and Project program - Aboriginal Cultural Heritage Management Plan

Vince Connell, Robyn Eisermann

Vince outlined status of the Aboriginal Cultural Heritage Management Plan (ACHMP):

- A funding Grant of \$50,000 has been received which is being matched by Council.
- The project is being managed through Council's Planning Unit in consultation with the Community Services Unit.
- A consultant will work with the Committee to guide preparation of the Plan.
- The new standard LEP template requires Council address Aboriginal cultural heritage.
- The project will develop culturally appropriate methods of identifying and managing Aboriginal cultural heritage.
- The project will also develop guidelines and processes to assist education of Council staff on the management of developments that may impact on cultural heritage.

The next step in the process is to:

- Prepare a tender brief seeking consultants to undertake the project
- A key component will be extensive consultation and development of a working relationship with local Aboriginal groups and Lands Council.
- Culturally appropriately Identify cultural heritage themes and locations.
- Develop educative and management Guidelines and processes.

A6. Draft LEP/DCP/Vision for Tweed Heads City Centre

Vince Connell, Robyn Eisermann

Vince advised that the Draft LEP/DCP/Vision for Tweed Heads City Centre went on exhibition in 2010 which has since been revised and Council has resolved for the documents to go back on public exhibition. Vince wanted to confirm the historical context pages of the Vision document with the Committee before it goes back on exhibition.

Jackie advocated and suggested that Council should engage a relevant person to rewrite the incorrect pages in consultation with the Committee. Ian Fox was suggested as someone appropriate to undertake this task.

Vince advised that the document will not go on public exhibition until the Committee has been further consulted with.

Action: *Vince to liaise with David Oxenham re any review of the Historical Context pages of the latest Vision document.*

In this regard, a meeting was held between Council officers and AAC representatives on 12 August. It was decided at that meeting that it was appropriate to proceed with the public exhibition of the latest Vision document, along with the Draft LEP and DCP, as recently resolved by Council, and that the AAC will consider making a submission on the draft documents as part of the public exhibition process.

Vince Connell, Robyn Eisermann left at 2.25pm

Outwards Correspondence

OC1 Banora Point Upgrade Alliance - Naming of viaduct

Committee advised of letter sent to the Banora Point Upgrade Alliance.

General Business

GB1. Letitia Road - access points plan (David Oxenham)

David advised that concerns have been raised from the community regarding access points to the beach off Letitia Road. Currently there is a designated 3m pedestrian access point. Council met with the Land Council regarding installing fencing and a gate which emergency vehicles will have access to.

GB2. Setting up of AAC Committee within Byron Shire

Leweena and Des advised that they recently held a meeting with the General Manager of Byron Shire Council regarding setting up an Aboriginal Advisory Committee with Byron Shire Council. Currently the Land Council is excluded from consultation. Des advised that the TBLALC preference would be for one committee and to include members from the community.

Jackie suggested Byron Council could be invited to a future AAC meeting to observe function of this Committee and history of Committee.

Action: Anne to provide TBLALC link to Byron Shire Project Reference Group pages.

Next Meeting:

The next meeting of the Aboriginal Advisory Committee will be held on Friday 2 September 2011 at Tweed Byron Local Aboriginal Lands Council.

The meeting closed at 2.25pm.

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

Nil.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

Nil.