



TWEED
SHIRE COUNCIL

Mayor: Cr K Milne

Councillors: P Allsop
R Byrnes
C Cherry (Deputy Mayor)
R Cooper
J Owen
W Polglase

Minutes

Planning Committee Meeting Thursday 6 July 2017

held at Harvard Room, Tweed Heads Administration Building, Brett Street, Tweed Heads commencing at 5.30pm

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 5.30pm.

IN ATTENDANCE

Cr Katie Milne (Mayor), Cr Chris Cherry (Deputy Mayor), Cr Pryce Allsop, Cr Reece Byrnes, Cr Ron Cooper, Cr James Owen and Cr Warren Polglase

Also present were Mr Troy Green (General Manager), Ms Liz Collyer (Director Corporate Services), Mr Anthony Burnham (for Director Engineering), Mr Vince Connell (Director Planning and Regulation), Ms Tracey Stinson (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 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.

DECLARATION OF INTEREST

Cr C Cherry declared a Non-Significant, Non-Pecuniary conflict of interest in Item 3 [PR-PC] Development Applications T4/2794.06, D94/0015.09 and PN1074.09 for an amendment to Development Consents T4/2794, D94/0015 and PN1074 for Extensions to an Existing Caravan Park to Accommodate a Total of 107 Movable Dwelling Sites at Lot 11 DP 1206666 No. 2 Barneys Point Road, Banora Point.

The nature of this interest is due to her family having interests in other caravan parks in the Shire.

Cr C Cherry will vacate the Chambers during discussion and voting on the item.

Cr K Milne declared a Non-Significant, Non-Pecuniary conflict of interest in Item 4 [PR-PC] Kings Forest Concept Plan Modification (Council Reference GT1/51 Department's Reference MP06/0318 MOD 7) and Kings Forest Project Application Modification (Council Reference DA11/0565.05 Departments Reference No. MP08/0194 MOD 5) to Accommodate the use of a Private Water Utility Licensed under the Water Industry Competition Act 2006 to Provide Water Supply and Sewerage Services including Recycled Water Reticulation to the Kings Forest Development No. 86 Melaleuca Road, Kings Forest

The nature of this interest is due to legal matters with the Chairman of Leda Developments, Mr Ell.

Cr K Milne will remain in the Chambers during discussion and will vote on the merits of the item.

ITEMS TO BE MOVED FROM ORDINARY TO CONFIDENTIAL - CONFIDENTIAL TO ORDINARY

Nil.

SCHEDULE OF OUTSTANDING RESOLUTIONS

Nil.

ORDERS OF THE DAY

Nil.

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 1 **[PR-PC] Development Application DA16/0274 for a 21 Lot Community Title Subdivision, Demolition, Earthworks, Vegetation Clearing and Erection of Dwelling Houses at Lot 2 DP 564549 No. 42 North Arm Road, Murwillumbah**

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**Cr P Allsop
Cr R Byrnes**

RECOMMENDED that Development Application DA16/0274 for a 21 lot community title subdivision, demolition, earthworks, vegetation clearing and erection of dwelling houses at Lot 2 DP 564549 No. 42 North Arm Road, Murwillumbah be refused for the following reasons:

1. Pursuant to Section 79C (1) (b) the proposal is considered to create an unacceptable impact on the built environment in relation to inadequate provision to water, sewer and stormwater services, non-compliances with Section A1 - Rear Deep Soil Zones; Rear Setbacks; Side setbacks; Front setbacks; Building separation; Retaining walls; and Visual privacy. Insufficient detail has been provided relating to the proposed retaining walls which has the potential to create adverse impacts on adjoining properties.
2. Pursuant to Section 79C (1) (e) the proposed development is considered not to be within the public interest. Due the number of unresolved issues the development is considered not to be within the public interest.

The Motion was **Carried**

FOR VOTE - Unanimous

2 [PR-PC] Development Application DA16/0724 for a Dwelling and Secondary Dwelling at Lot 83 DP 1030322 No. 8 Eclipse Lane, Casuarina

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**Cr J Owen
Cr P Allsop**

PROPOSED that Development Application DA16/0724 for a dwelling and secondary dwelling at Lot 83 DP 1030322 No. 8 Eclipse Lane, Casuarina be approved subject to the following conditions:

"DEFERRED COMMENCEMENT"

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within three months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 95 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

SCHEDULE "A"

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 95 of the Regulations as amended.

- A. The approved plans must be amended to ensure the eaves of the first floor are setback a minimum of 675mm from the side boundary. Details to the satisfaction of the General Manager or delegate prior to the provisions of deferred commencement being satisfied.

SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE 'A' ARE SATISFIED.

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos:
 - Site Plan, DA-001, Issue 009, dated 28/02/17
 - Ground Floor Plan, DA-002, Issue 001, dated 28/02/17
 - First Floor Plan, DA-003, Issue 001, dated 28/02/17
 - Roof Plan, DA-004, Issue 001, dated 28/02/17
 - Ground Floor Plan (neighbouring house analysis) DA-005, Issue 001, dated 28/02/17
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- First Floor Plan, (neighbouring house analysis) DA-006, Issue 001, dated 28/02/17
- North-West Elevation, DA-007, Issue 001, dated 28/02/17
- South-West Elevation, DA-008, Issue 001, dated 28/02/17
- South-East Elevation, DA-009, Issue 001, dated 28/02/17
- North-East Elevation, DA-010, Issue 001, dated 28/02/17
- Section Thru-A, DA-011, Issue 001, dated 28/02/17
- Section Thru-B, DA-012, Issue 001, dated 28/02/17
- Section Thru-C, DA-013, Issue 001, dated 28/02/17
- Bin Enclosure Details, DA-017, Issue 001, dated 28/02/17

prepared by Real Space Creative, except where varied by the conditions of this consent.

[GEN0005]

2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0115]

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 owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0300]

5. Bushfire Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

(a) Construction shall comply with Australian Standard AS3959-2009 'Construction of buildings in Bush Fire-prone areas', Bushfire attack Level (BAL) 12.5 for dwelling.

(b) Prior to issue of an Occupation Certificate the development is to be completed in accordance with the Bushfire Risk Management Plan prepared by Planit Consulting dated September 2016.

[GEN0335]

6. The development approval is for a dwelling and secondary dwelling. Any alterations to the building that result in an attached dual occupancy would require separate development consent.

[GENNS01]

7. Where easements in favour of Council are provided through private property no structures or part thereof may encroach into the easement.

8. As the approved plans propose to use the double garage for the secondary dwelling and principle dwelling, the garage shall be divided and fire rated both individually and to the main building in accordance with the Building Code of Australia.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. Stormwater

- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.
- (b) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
- (c) The infiltration rate for sizing infiltration devices shall be 3m per day:
 - * As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
- (d) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
- (e) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
- (f) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
- (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (h) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- (i) All infiltration devices are to be designed to withstand loading from vehicles during construction and operation of the development.
- (j) All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

10. If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to
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the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.

The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.

[PCC1325]

11. Appropriate screening shall be provided for the entry porch along the southern side boundary to the satisfaction of the General Manager or delegate.
12. Front boundary fencing shall maintain an openness of 60% above 600mm from ground level to the satisfaction of the General Manager of delegate.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

13. 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]

14. 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]

- 15. 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]

- 16. 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]

- 17. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one closet for every 15 persons or part of 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]

- 18. 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]

19. 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

20. 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]

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

[DUR0245]

22. 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]

23. 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]

24. 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 Work Health and Safety Regulation 2011.

[DUR0415]

25. The finished floor level of the building should finish not less than 225mm above finished ground level.

[DUR0445]

26. 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]

27. 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 filling operations and also from construction vehicles.
 - Material removed from the site by wind.
- [DUR1005]
28. Zone Boundary
- (a) No construction work other than 1.2m high fencing is to be carried out in the 7(f) zone.
 - (b) The 7(f) and 2(e) zone boundary is to be clearly identified on site by Registered Surveyor marks prior to start of work.
 - (c) No overflow from an infiltration pit shall be discharged over the eastern boundary.
- [DUR1035]
29. Landscaping of the site shall be carried out in accordance with the submitted/approved landscaping plans.
- [DUR1045]
30. All landscaping is to comply with the 88B Instrument pertaining to the site.
- [DUR1055]
31. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- [DUR1875]
32. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blown from the site.
- [DUR2185]
33. 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]
34. 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 Plumbing Code of Australia and AS/NZS 3500.
- [DUR2495]

35. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

[DUR2505]

36. 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]

37. 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:

- * 45°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]

38. Sewer connections within the 7(f) zone are to comply with the following:

- (a) Two inspection shafts shall be provided to each lot. The first shall be provided immediately adjacent to the connection point provided by the developer. The second inspection shaft at 0.5 metres inside the 2(e) zone boundary on each property. Inspection shafts are to be finished at surface level with a standard bolted trap screw cap and concrete surround.
- (b) Pipe work size for all lots under this approval are to have a 100mm diameter sewer.

[DUR2695]

39. Works in the vicinity of public infrastructure must comply with the following requirements:

- a) Deep soil planting zones are not permitted in the sewer easement to ensure adequate protection of council's public sewer infrastructure.
- b) Trees and other landscaping that will grow to over one meter in height at maturity are not permitted within the sewer easement to prevent the tree roots intruding into sewer mains and internal sewer pipes. Landscaping within sewer easements shall be of a minor nature designed to ensure they do not damage or interfere with any part of the pipeline.
- c) Surface treatment over the sewer pipe shall be limited to soft landscaping, non-interlocking paving, asphalt or similar treatments as specified by Council officers, to allow ready access to the pipe for excavation. Council will not be responsible for the reinstatement of plantings, unauthorised structures or decorative surfacing in the vicinity of the pipe in the event of pipe excavation or other maintenance works.

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

40. 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]

41. 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 75-100mm 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]

42. 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]

43. 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]

USE

44. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.

[USE0125]

45. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.

[USE0175]

46. Subdivision of the development, including strata subdivision, is not permitted.

[USE1255]

AMENDMENT 1

P 65

**Cr K Milne
Cr J Owen**

RECOMMENDED that Item 2 [PR-PC] Development Application DA16/0724 for a Dwelling and Secondary Dwelling at Lot 83 DP 1030322 No. 8 Eclipse Lane, Casuarina be deferred to 20 July 2017 Council Meeting.

Amendment 1 was **Carried**

FOR VOTE - Unanimous

Amendment 1 on becoming the Motion was **Carried** - (Minute No **P 65** refers)

FOR VOTE - Unanimous

3 [PR-PC] Development Applications T4/2794.06, D94/0015.09 and PN1074.09 for an amendment to Development Consents T4/2794, D94/0015 and PN1074 for Extensions to an Existing Caravan Park to Accommodate a Total of 107 Movable Dwelling Sites at Lot 11 DP 1206666 No. 2 Barneys Point Road, Banora Point

Cr C Cherry declared a Non-Significant, Non-Pecuniary conflict of interest in Item 3 [PR-PC] Development Applications T4/2794.06, D94/0015.09 and PN1074.09 for an amendment to Development Consents T4/2794, D94/0015 and PN1074 for Extensions to an Existing Caravan Park to Accommodate a Total of 107 Movable Dwelling Sites at Lot 11 DP 1206666 No. 2 Barneys Point Road, Banora Point.

The nature of this interest is due to her family having interests in other caravan parks in the Shire.

Cr C Cherry will vacate the Chambers during discussion and voting on the item.

P 66

**Cr W Polglase
Cr J Owen**

RECOMMENDED that Council grants delegated authority to the General Manager to determine modification of the three Development Consents T4/2794, D94/0015 and PN1074 for Extensions to an Existing Caravan Park to Accommodate a Total of 107 Movable Dwelling Sites at Lot 11 DP 1206666 No. 2 Barneys Point Road, Banora Point subject to appropriate conditions.

The Motion was **Carried**

FOR VOTE - Cr R Byrnes, Cr R Cooper, Cr J Owen, Cr W Polglase, Cr P Allsop
AGAINST VOTE - Cr K Milne
ABSENT. DID NOT VOTE - Cr C Cherry

- 4 [PR-PC] Kings Forest Concept Plan Modification (Council Reference GT1/51 Department's Reference MP06/0318 MOD 7) and Kings Forest Project Application Modification (Council Reference DA11/0565.05 Departments Reference No. MP08/0194 MOD 5) to Accommodate the use of a Private Water Utility Licensed under the Water Industry Competition Act 2006 to Provide Water Supply and Sewerage Services including Recycled Water Reticulation to the Kings Forest Development No. 86 Melaleuca Road, Kings Forest**

Cr K Milne declared a Non-Significant, Non-Pecuniary conflict of interest in Item 4 [PR-PC] Kings Forest Concept Plan Modification (Council Reference GT1/51 Department's Reference MP06/0318 MOD 7) and Kings Forest Project Application Modification (Council Reference DA11/0565.05 Departments Reference No. MP08/0194 MOD 5) to Accommodate the use of a Private Water Utility Licensed under the Water Industry Competition Act 2006 to Provide Water Supply and Sewerage Services including Recycled Water Reticulation to the Kings Forest Development No. 86 Melaleuca Road, Kings Forest.

The nature of this interest is due to legal matters with the Chairman of Leda Developments, Mr Ell.

Cr K Milne will remain in the Chambers during discussion and will vote on the merits of the item.

P 67

Cr C Cherry
Cr W Polglase

RECOMMENDED that Council endorse that a copy of this report be provided to the NSW Department of Planning as Council's Official position on both Kings Forest Concept Plan Modification (Council Reference GT1/51 Department's Reference MP06/0318 MOD 7) and Kings Forest Project Application Modification (Council Reference DA11/0565.05 Departments Reference Number MP08/0194 MOD 5) to accommodate the use of a private water utility licensed under the Water Industry Competition Act 2006 to provide water supply and sewerage services including recycled water reticulation to the Kings Forest Development, No. 86 Melaleuca Road, Kings Forest.

The Motion was **Carried**

FOR VOTE - Unanimous

5 [PR-PC] Murwillumbah Main Street Heritage Conservation Project - Look Up

P 68

Cr W Polglase

Cr P Allsop

RECOMMENDED that the summary of projects funded under the 2016-17 Murwillumbah Main Street Heritage Conservation Project – Look Up grants be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

6 [PR-PC] Report on the 2016-17 Local Heritage Assistance Fund Program

P 69

Cr C Cherry

Cr K Milne

RECOMMENDED that:

1. The summary of the outcomes of the 2016-17 Local Heritage Assistance Fund Grants program, as attached to this report, is noted.
2. The continuation of the Local Heritage Assistance Fund and Heritage Advisor Program is supported.

The Motion was **Carried**

FOR VOTE - Unanimous

7 [PR-PC] Review of the NSW Government's Proposed Greenfield Housing Code May 2017

P 70

ALTERNATE MOTION

P 71

Cr C Cherry

Cr K Milne

RECOMMENDED that Council endorses this report as Councils submission to the NSW Department of Planning with the following amendment:

Recommendation in regards to tree planting at lot scale (Page 167 printed Agenda) be replaced with the following:

Council strongly supports mandatory requirements for tree canopy coverage across development sites but raises concerns about relying on this to be largely delivered at lot level due to the uncertain link between the measures against performance outcomes and known compliance issues concerning landscaping requirements. This also poses risk to structural systems to neighbouring property and life arising from natural events, the liability of which Council does not accept, and thus should be accompanied by a list of mandatory guidelines for appropriately sized native and endemic tree plantings if at lot level.

And the addition of the following:

1. The draft Greenfield Housing Code intensifies the support and likelihood of very small lot housing with minimal land available for open space and planting or large or mature vegetation. Clarification of how this allows for trees, in particular without impacting on essential infrastructure and without further adding to the urban heat island effect, is requested.
2. Regarding the limited capacity of small lots, especially those capable of supporting a comparatively large dwelling and to safely provide for mature trees and vegetation, can the DPE clarify whether it has considered a need to regulate road reserve widths to accommodate footpath reserves larger enough to accommodate additional tree plantings to offset the impact associated with small lots and provide the research and analysis of this issue to better support the draft Greenfield Housing Code proposals.
3. The draft Greenfield Housing Code is heavily focused on small lots, minimal regulation of dwellings, and removing barriers to approvals, but does not seemingly offset the potential lesser environmental performance or sustainability of this form of compact housing with increased provision or better standards for cycle ways or other measures to curb car dependency and accelerate walkable communities. Whilst there is a discussion of master-planning guidelines we seek assurance that these will be prepared and given legal standing to offset the impact of denser greenfield housing development promoted in the draft Code.

4. The draft Greenfield Housing Code whilst advocating for smaller lots and denser housing does not seemingly address the corresponding need for the greater provision of public open space per capita. Can the DPE clarify whether it has researched and evaluated the impact on community health associated with intensifying the quantum of new dwellings with limited open space and how this is proposed to be addressed?
5. Notification requirements are considered inadequate and should include neighbouring land and their respective landowner and not merely a tenant of the property. Can the DPE clarify what level of consideration has been given to the neighbour notification proposals and relevantly the evidence in support of the limited approach.

The Motion was **Carried**

FOR VOTE - Unanimous

8 [PR-PC] Kingscliff Locality Plan Community Consultation

ALTERNATE MOTION

P 72

Cr C Cherry

Cr J Owen

RECOMMENDED that:

1. Council defers this item to the next Planning Committee Meeting on 3 August 2017.
2. A summary report identifying the differences between the Draft Kingscliff Locality Plan attached to this agenda and the concept proposals, as exhibited at the shopfront be provided to Councillors with particular regard to:
 - a. Provision of structured and casual Open Space per person.
 - b. Additional extra population accommodated by the increase to 16.6m and 20m (5 and 6 storey) areas compared to 12.2m/13.6m.
 - c. Provide a discussion as to how the 'uplift' in development yield may influence the cost of this new housing.
3. A workshop is conducted including an on-site visit on the Draft Kingscliff Locality Plan with all Councillors.

The Motion was **Carried**

FOR VOTE - Unanimous

a8 [PR-PC] Section 94 Library Contribution Plan Review Particularly for Kingscliff

P 73

**Cr K Milne
Cr C Cherry**

RECOMMENDED that Council provides further advice in regards to accommodating further expanded library facilities at Kingscliff under a review of our Library Section 94 Plan and writes to the Minister for Planning in regards to the potential for Section 94 Plans to further accommodate community benefits and in particular libraries.

The Motion was **Carried**

FOR VOTE - Unanimous

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

P 74

**Cr J Owen
Cr P Allsop**

RECOMMENDED that Council notes there are no variations for the month of May 2017 to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

a9 [PR-PC] DA12/0170 Halcyon House and Paper Daisy Restaurant - Lot 100 DP 1208306 No. 19-25 Cypress Crescent, Cabarita Beach

LATE ITEM

P 75

The Chairman ruled that Item a9 not be accepted onto the Agenda and be deferred to the next Planning Committee meeting on 3 August 2017.

SUSPENSION OF STANDING ORDERS

P 76

Cr C Cherry
Cr J Owen

RESOLVED that Standing Orders be suspended at 6.30pm to deal with Items 2 and 3 on the Council Agenda.

The Motion was **Carried**

FOR VOTE - Unanimous

RESUMPTION OF STANDING ORDERS

P 77

Cr K Milne
Cr J Owen

RESOLVED that Standing Orders be resumed at 6.47pm.

The Motion was **Carried**

FOR VOTE - Unanimous

CONFIDENTIAL COMMITTEE

P 78

Cr K Milne
Cr J Owen

RESOLVED that Planning Committee resolves itself into a Confidential Committee in accordance with Section 10A(2) of the Local Government Act 1993 (as amended) and that the press and public be excluded from the whole of the Committee Meeting, because, in the opinion of the Committee, publicity of the proceedings of the Committee would be prejudicial to the public interest, by reasons of the confidential nature of the business to be transacted.

The Motion was **Carried**

FOR VOTE - Unanimous

CONFIDENTIAL ITEMS FOR CONSIDERATION

The General Manager reported that the Confidential Committee had excluded the press and public from the whole of the Committee Meeting because, in the opinion of the Committee, publicity of the proceedings of the Committee would be prejudicial to the public interest, by reason of the confidential nature of the business to be transacted, and made the following recommendations to Council:-

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

C1 [PR-PC] Class 1 Appeal Development Application DA16/0355 for a 60 Lot Subdivision at Lot 1 DP 779976 No. 26 Tringa Street, Tweed Heads West

REASON FOR CONFIDENTIALITY:

This application is subject to a current Class 1 Court Appeal

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
-

PC 25

That Council:

1. In respect of the current Class 1 appeal in the Land and Environment Court relating to DA16/0355 at Lot 1 DP 779976 No. 26 Tringa Street, Tweed Heads West, provide delegation under Section 377(1) of the Local Government Act 1993 to Council's Mayor and General Manager to undertake negotiations during the upcoming s34 conference with regards to engineering and design issues, site contamination, stormwater treatment and discharge and amenity impacts due to proximity to the Tweed Heads Wastewater Treatment Plant, as outlined in this report. Negotiations would take place through Council's solicitors to the Applicant's solicitors.
2. Negotiations in relation to the impact of aircraft noise will not be undertaken, as this forms the undeniable primary reason for refusal and it is advised that this is an issue for resolution by the Court rather than through pre-hearing negotiations.
3. Negotiations in regard to offsetting in the Koala Plan of Management (KPoM) may be undertaken in regard to the location of offsetting but not in regard to the ratios as set out in the KPoM.

The Motion was **Carried**

FOR VOTE - Unanimous

P 79

Cr K Milne
Cr C Cherry

RECOMMENDED that the recommendations of the Confidential Committee be adopted.

The Motion was **Carried**

FOR VOTE - Unanimous

There being no further business the Planning Committee Meeting terminated at 7.07pm.

