



TWEED
SHIRE COUNCIL

Mayor: Cr K Milne

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

Minutes

Ordinary Council Meeting Thursday 11 May 2017

held at **Harvard Room, Tweed Heads Administration Building, Brett Street, Tweed Heads** commencing at the conclusion of the Planning Committee meeting which commences at 5.00pm.

Principles for Local Government

The object of the principles for Tweed Shire Council, as set out in Section 8 of the Local Government Amendment (Governance and Planning) Bill 2016, is to provide guidance to enable council to carry out its functions in a way that facilitates a local community that is strong, healthy and prosperous.

Guiding Principles for Tweed Shire Council

(1) Exercise of functions generally

The following general principles apply to the exercise of functions by Tweed Shire Council:

- (a) Provide strong and effective representation, leadership, planning and decision-making.
- (b) Carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) Plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) Work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Work with others to secure appropriate services for local community needs.
- (h) Act fairly, ethically and without bias in the interests of the local community.
- (i) Be responsible employers and provide a consultative and supportive working environment for staff.

(2) Decision-making

The following principles apply to decision-making by Tweed Shire Council (subject to any other applicable law):

- (a) Recognise diverse local community needs and interests.
- (b) Consider social justice principles.
- (c) Consider the long term and cumulative effects of actions on future generations.
- (d) Consider the principles of ecologically sustainable development.
- (e) Decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

(3) Community participation

Council should actively engage with the local community, through the use of the integrated planning and reporting framework and other measures.

The Meeting commenced at 5.48pm.

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 David Oxenham (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).

APOLOGIES

Nil.

DISCLOSURE OF INTEREST

Nil.

CONFIRMATION OF PLANNING COMMITTEE MINUTES

1 [CONMIN-CM] Adoption of the Recommendations of the Planning Committee Meeting held Thursday 11 May 2017

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Cr K Milne
Cr C Cherry

RESOLVED that the recommendations of the Ordinary Planning Committee Meeting held Thursday 11 May 2017 be adopted.

1 [PR-PC] Development Application DA03/0445.03 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

RECOMMENDED that:

1. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
2. Development Application DA03/0445.03 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 Urliup Road, Urliup be refused for the following reasons:

1. Urliup Road is not considered suitable to accommodate 19m trucks on the regularity proposed by DA03/0445.03.
2. The subject application is not considered in the public interest due to overall safety issues.

2 [PR-PC] Development Application DA15/0664 for Upgrading Works on Urliup Road associated with DA03/0445 at Road 5720 Urliup Road, Urliup

RECOMMENDED that:

1. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
2. Development Application DA15/0664 for upgrading works on Urliup Road associated with DA03/0445 at Road 5720 Urliup Road, Urliup be refused for the following reasons:
 1. The works proposed by DA15/0664 are not to an engineering standard that is considered suitable to accommodate 19m trucks as proposed by the regularity in DA03/0445.03.
 2. The development as proposed does not satisfy Tweed LEP 2014 Clause 7.10 (e) "Suitable Road Access".
 3. The development poses an unacceptable direct, indirect and cumulative impact on significant local ecological values including threatened species, their habitats and Endangered and Threatened Ecological Communities listed under the *Threatened Species Conservation Act 1995* and/or *Environment Protection and Biodiversity Conservation Act 1999* and as such fails to satisfy Section 5A of the EP&A Act.
 4. The subject application is not considered in the public interest due to overall safety issues.

3 [PR-PC] Development Application DA17/0073 for Alterations and Additions to Existing Brewery at Lot 207 DP 1122768 No. 35-37 Kite Crescent, South Murwillumbah

RECOMMENDED that:

- A. Clause 4.6 Variation to the Tweed Local Environmental Plan 2014 in regards to the Height of Buildings Map regarding the 6m height

variation be supported and the concurrence of the Director-General of the Department of Planning be assumed.

- B. Development Application DA17/0073 for alterations and additions to existing brewery at Lot 207 DP 1122768 No. 35-37 Kite Crescent, South Murwillumbah be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Drawing Nos 170125-07, plans 1-7, Issue B prepared by Greg Alderson and Associates and dated 31/01/2017, 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. Any business or premises proposing to discharge wastewater containing pollutants differing from domestic sewage must submit a Liquid Trade Waste Application Form to Council. The application is to be approved by the General Manager or his delegate prior to any discharge to the sewerage system. A Liquid Trade Waste Application fee will be applicable in accordance with Council's adopted Fees and Charges.

[GEN0190]

4. The building is required to be upgraded to satisfy the requirements of the NCC-BCA to achieve a satisfactory level of fire safety and the option is available to submit a fire engineering report containing alternative solutions addressing the Performance Requirements contained in Volume 1 of the Building Code of Australia relating to the requirements listed below. This report is to be submitted to the nominated PCA for assessment and determination prior to issue of the Construction Certificate.

The Building is to be provided through with a sprinkler system complying with Specification E1.5 and part C2.3 Large Isolated Buildings of Volume 1 of the NCC- BCA.

[GENNS01]

5. This development consent shall be read in conjunction with that issued in association with DA13/0346 and DA14/0869.02 which granted consent for the current brewery operations and additions and alterations respectively. The applicant is responsible for payment of contribution charges levied against

both applications as represented in the respective development consents.

[GENNS01]

6. Sewage discharge to Council's sewer is limited to no more than 5 L/s and total discharge limited to no more than 30 kL/d.
7. The Liquid Trade Waste discharged from this premises to Council's sewerage system must at all times comply with a current Liquid Trade Waste Agreement as issued by Tweed Shire Council.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. Section 94 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has 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 this 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) Extensions to Council Administration Offices
& Technical Support Facilities
0.130212 ET @ \$1909.57 per ET \$248.65
(\$1,759.90 base rate + \$149.67 indexation)
S94 Plan No. 18

[PCC0215]

9. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply

of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless the Certifying Authority has sighted Council's "Certificate of Compliance" signed by an authorised officer of Council or a written agreement has been entered into by the applicant with Council for deferred payments in accordance with Council's Business Investment Policy.

[PCC0265]

10. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

PRIOR TO COMMENCEMENT OF WORK

11. 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]

- 12. 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]

- 13. 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]

- 14. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0665]

DURING CONSTRUCTION

15. All proposed works are to be carried out in accordance with the conditions of development consent, approved management plans, approved trade waste agreement, approved construction certificate, drawings and specifications.
16. All proposed works are to be carried out in accordance with the conditions of development consent, approved management plans, approved trade waste agreement, approved construction certificate, drawings and specifications.
[DUR0005]
17. The provision of thirty-seven (37) off street car parking spaces including parking for the disabled where applicable. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.
[DUR0085]
18. 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]
19. 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]
20. 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]
21. 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]
22. 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]

23. 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]

24. 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]

25. 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]

26. A garbage storage area shall be provided in accordance with Council's "Development Control Plan Section A15 - Waste Minimisation and Management".

[DUR2195]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

27. 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]

28. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

29. A final occupation certificate must be applied for and obtained within 6 months of any Interim Occupation Certificate being

issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein).

[POC0355]

30. On completion of work a certificate signed by a practising structural engineer is to be submitted to the Principal Certifying Authority to certify the structural adequacy of the structure.

[POC0805]

USE

31. 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]

32. Hours of operation of the business are restricted to the following hours:

- * 24 hours per day, seven days per week, excluding deliveries and pickups and packaging
- * All deliveries and pickups relating to the business are to occur between 7:00 am and 7:00 pm
- * All packaging of the product is to occur between 7:00 am and 7:00 pm.

[USE0185]

33. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.

[USE0225]

34. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer.

[USE0245]

35. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act* 2003, Food Standards Code, AS 4674-2004 Design, Construction and Fit-out of Food Premises and other requirements of the NSW Food Authority.

[USE0835]

4 [PR-PC] Development Application DA10/0020.06 for an Amendment to Development Consent DA10/0020 for the Establishment of a Brothel at Lot 2 SP 84405 No. 2/36 Enterprise Avenue, Tweed Heads South

RECOMMENDED that:

1. Condition No. 43B is to be DELETED and REPLACED with Condition No. 43C which reads as follows:

43C. The hours of operation of the brothel premises are 24 hours per day seven (7) days a week for a one (1) year trial period commencing on the operation of DA10/0020.06 (11/05/2017).

A further application may be lodged to continue the hours of the use outlined above before the end of the trial period (11/05/2018). Council's consideration of the continuance of the operating hours will be based on, among other things, the performance of the **new** operator in relation to the compliance with development consent conditions, including the Plan of Management, any substantial complaints received and any views expressed by the Police.

At the end of the one year trial period, unless otherwise amended as outlined above, the hours of operation of the brothel are to revert to being restricted to 6.00pm to 6.00am seven days per week, with no public services provided between 6.00am to 6.00pm. The brothel premises is not be used or occupied by sex workers, employees, cleaners etc. prior to 5:00pm or after 7:00am.

5 [PR-PC] Holiday Letting - 6 Beason Court, Casuarina

RECOMMENDED that enforcement action be taken to cease the holiday letting use in relation to the unlawful land use, should there be any further substantiated neighbourhood disruption and the management controls that are in place have been exercised with regard to 6 Beason Court, Casuarina.

6 [PR-PC] Planning Proposal PP16/0004 The Palms Shopping Village, Dry Dock Road Tweed Heads South

RECOMMENDED that in terms of Planning Proposal PP16/0004 Palms Shopping Village, the matter of alleged unlawful fill of land be referred to Council's Compliance Unit for appropriate investigation and action. On completion of this investigation, a further report will be submitted to Council to further consider the referral of the Planning Proposal to the Department of Planning and Environment for a Gateway determination.

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

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

C1 [E-PC] SPS 3037 Terranora (Area E) Regional Sewerage Pump Station - Contribution from Development Servicing Charges

REASON FOR CONFIDENTIALITY:

Disclosure of Council financial information could prejudice Council's position.

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: -

- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret.

RECOMMENDED that Council approve the payment of \$220,117.00 excluding GST to Newland Developers Pty. Ltd., being for the marginal difference in cost to construct the pump well and rising main for SPS 3037 to a size suitable for its future use as a regional sewer pump station.

The Motion was **Carried**

FOR VOTE - Unanimous

There being no further business the Meeting terminated at 5.49pm



**Minutes of Meeting Confirmed by Council
at the Meeting held on
xxx**

Chairman

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