



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 3 August 2017

held at **Council Chambers, Murwillumbah Civic & Cultural Centre,**
Tumbulgum Road, Murwillumbah 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 5.32pm.

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), Mr Michael Chorlton for the Director Corporate Services, Mr David Oxenham (Director Engineering), Mr Vince Connell (Director Planning and Regulation), Ms Tracey Stinson (Director Community and Natural Resources), 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.

APOLOGIES

Nil.

DISCLOSURE OF INTEREST

Cr K Milne declared a Non-Significant, Non-Pecuniary conflict of interest in Item 7 [PR-PC] Kings Forest Project Application Modification (Council Reference DA11/0565.03 Department's Reference MP08/0194 MOD 4) which Seeks Approval for a Revised Koala Plan of Management for 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

Nil.

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

SUSPENSION OF STANDING ORDERS

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**Cr J Owen
Cr W Polglase**

RESOLVED that Standing Orders be suspended to deal with Item 3 of the Agenda.

The Motion was **Carried**

FOR VOTE - Unanimous

3 [PR-PC] Development Application DA17/0084 for a Seniors Living (33 Aged Care Residential Rooms and 36 Independent Living Units) at Lots 2 & 3 NPP 271020 No. 128-130 Leisure Drive, Banora Point

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**Cr C Cherry
Cr K Milne**

RECOMMENDED that Development Application DA17/0084 for a Seniors Living (33 Aged Care Residential Rooms and 36 Independent Living Units) at Lots 2 & 3 NPP 271020 No. 128-130 Leisure Drive, Banora Point be deferred for a workshop and invite the proponent and representatives of the residents and then bring back a further detailed report with particular regard to parking, amenity and character issues, to 7 September 2017 Planning Committee meeting.

The Motion was **Carried**

FOR VOTE - Unanimous

RESUMPTION OF STANDING ORDERS

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**Cr C Cherry
Cr J Owen**

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

- 1 [PR-PC] Development Application DA17/0237 for a Change of Use of an Existing Shed to a Depot at Lot 4 DP 1074375 No. 18 Robinsons Road, Piggabeen**

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**Cr C Cherry
Cr R Cooper**

RECOMMENDED that:

- A. That Development Application DA17/0237 for a change of use of an existing shed to a depot at Lot 4 DP 1074375 No. 18 Robinsons Road, Piggabeen be refused for the following reasons:
1. Pursuant to Section 79C (1) (a)(i) the development proposal has not demonstrated compliance with Clause 2.3(1) of Tweed Local Environmental Plan 2014, as the proposed plans enable residential use without consent contrary to the land use table.
 2. Pursuant to Section 79C (1) (c) the site is not considered to be suitable for the proposed depot as sufficient information has not been provided to determine if the use is compatible with the objectives of the zone or surrounding land uses.
 3. Pursuant to Section 79C (1) (d) public submissions made with respect to the proposal raised concerns with unacceptable noise and traffic generation impacts associated with the apparent current use of the site as a depot and the potential increase in these impacts resulting from an approval.
 4. The current building is not consistent with the original plans approved under DA09/0704 and as such represents a non-compliance with advice provided by Country Energy during the assessment of DA09/0704.
- B. The unauthorised modifications are to be removed so that the shed complies with Development Consent DA09/0704 within 60 days from the date of notification or Council will commence legal action with respect to the unauthorised works.

The Motion was **Carried**

FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne, Cr J Owen, Cr P Allsop

AGAINST VOTE - Cr W Polglase

2 [PR-PC] Development Application DA17/0128 for Alterations and Refurbishment of Existing Imperial Hotel at Lot 2 DP 596914 No. 115 Murwillumbah Street, Murwillumbah

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**Cr K Milne
Cr R Byrnes**

PROPOSED that Development Application DA17/0128 for alterations and refurbishment of existing Imperial Hotel at Lot 2 DP 596914 No. 115 Murwillumbah Street, Murwillumbah be deferred to 17 August 2017 Council meeting to allow a site inspection with relevant assessing staff, Heritage Consultant and the proponent.

AMENDMENT 1

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**Cr P Allsop
Cr W Polglase**

RECOMMENDED that Development Application DA17/0128 for alterations and refurbishment of existing Imperial Hotel at Lot 2 DP 596914 No. 115 Murwillumbah Street, Murwillumbah be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and plans listed in the below table, except where varied by the conditions of this consent.

Drawing	Dwg. Number	Sheet	Drawn by
Proposed shop layout	882/16 (revision D) 12 July 2017	5	Trevor White Building Design
Upper Level Floor Plan	-	1	Trevor White Building Design
Elevations	882/16 (revision B) 3 February 2017	4	Trevor White Building Design
Roof plan	882/16 (revision B) 3 February 2017	6	Trevor White Building Design

[GEN0005]

2. Submission of a further Development Application(s) for the first use of the shops, offices and industrial shed use, such to be approved by Council prior to their use or occupation.

[GEN0055]

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

[GEN0115]

4. 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]

5. Sewer manholes are present on this site. Manholes are not to be covered with soil or other material.

Should adjustments be required to the sewer manhole, then applications for these works must be submitted on Council's standard Section 68 Application form accompanied by the required attachments and the prescribed fee. Works will not be approved until prior separate approval to do so has been granted by Council under Section 68 of the Local Government Act.

[GEN0155]

6. 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]

7. This development consent does not include demolition of the existing structures on the subject site. A separate approval will need to be obtained for this purpose, as statutorily required.

[GEN0305]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. Prior to the issue of a Construction Certificate the applicant is to submit to Council an application for Building Certificate for all unauthorised building works.

[PCCNS05]

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 all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Certificate of Compliance" signed by an authorised officer of Council.

BELOW IS ADVICE ONLY

The Section 64 Contributions for this development at the date of this approval have been estimated as:

Water: Nil

Sewer: Nil

10. Prior to the issue of the Construction Certificate a structural engineer report shall be submitted to the Principal Certifying Authority which certifies that the building is structural adequate or specifies the work required to ensure that the building will be structurally adequate.

[PCC1025]

11. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to the issue of a Construction Certificate.

[PCC1195]

12. In accordance with Section 68 of the Local Government Act, 1993 any premises proposing to discharge wastewater into Councils sewerage system other than domestic sewage, shall submit to Council a completed Liquid Trade Waste Application for a Liquid Trade Waste Services Agreement. The Application is to be approved by the General Manager or his delegate PRIOR to the issuing of a Construction Certificate to discharge to Council's sewerage system.

[PCC1255]

13. The building is required to be upgraded to satisfy the requirements of the NCC-BCA to achieve a satisfactory level of fire safety. Due to the complexities associated with an upgrade in accordance with the prescriptive requirements and due to the age of the building it is appropriate to engage an appropriately accredited fire engineer to prepare a report containing alternative solutions addressing the Performance Requirements of Parts C, D and E as contained in Volume 1 of the NCC - Building Code of Australia. The report is to include the staging of BCA upgrading works relating to each tenancy of the ground floor and first floor residential sole occupancy units. This report is to be submitted to the nominated PCA for assessment and determination prior to issue of the Construction Certificate.

[PCCNS01]

14. Access for people with a disability is to be provided to and within the building (in particular tenancies; 1, 2, 4/5 and 7) in accordance with Part D3 of the NCC-BCA 2016 and AS 1428.1 - 2009. Details indicating compliance is to be submitted to the nominated PCA for assessment and determination prior to issue of the Construction Certificate.

[PCCNS02]

15. An accessible facility is to be provided in close proximity with tenancies 4 and 5 in accordance with Part D3 of the NCC-BCA 2016 and AS 1428.1 - 2009. Details indicating compliance is to be submitted to the nominated PCA for assessment and determination prior to issue of the Construction Certificate.

[PCCNS03]

16. Prior to the issue of construction certificate, drawings to a scale of 1:50 detailing the following with regards to those food related areas for shops/tenancies 2 and 5 shall be provided to Council's Environmental Health Section for assessment and approval:
- a. Floor plan and sectional elevations in two directions
 - b. Layout of kitchens and bar showing all equipment
 - c. All internal finish details including benches and work surfaces, floors, wall, ceiling and lighting
 - d. Hydraulic design and in particular the method of disposal of trade waste
 - e. Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required
 - f. Served areas including counters etc.

[PCCNS04]

PRIOR TO COMMENCEMENT OF WORK

17. 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]

18. 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]

19. 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]

20. 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]

21. 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

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

[DUR0005]

23. All works shall comply with AS2601-2001 Demolition of Structures and the Work Health and Safety Regulation 2011.

[DUR0165]

24. 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]

25. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

A. Short Term Period - 4 weeks.

$L_{Aeq, 15 \text{ min}}$ noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

B. Long term period - the duration.

$L_{Aeq, 15 \text{ min}}$ noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0215]

26. 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]

27. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:

(a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.

(b) The chute shall be located in a position approved by the Principal Certifying Authority.

(c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.

[DUR0385]

28. 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]

29. 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]

30. 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]

31. Excavation

- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.
- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0425]

32. If the work involved in the erection or demolition of a building:

- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
- (b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.

Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.

Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate/subdivision certificate.

Application shall be made to Tweed Shire Council including associated fees for approval prior to any structure being erected within Councils road reserve.

[DUR0435]

33. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Work Health and Safety Regulation 2011.

The proponent shall also observe the guidelines set down under the Department of Environment and Climate Change publication, "A Renovators Guide to the Dangers of Lead" and the Workcover Guidelines on working with asbestos.

[DUR0645]

34. 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]

35. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]

36. Where a building or part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428. [DUR1695]
37. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia. [DUR1705]
38. Pursuant to the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with the relevant provisions of AS1428- Design for Access and Mobility. [DUR1725]
39. 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]
40. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times. [DUR2015]
41. 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]
42. 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]
43. 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.
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[DUR2495]

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

[DUR2505]

45. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.

[DUR2525]

46. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR2535]

47. 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]

48. 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]

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

- (a) 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

50. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[POC0005]

51. 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]

52. 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]

53. 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]

54. 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]

55. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.

[POC1055]

USE

56. 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]

57. Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

[USE0145]

58. The $L_{Aeq, 15 \text{ min}}$ noise level emitted from the premises shall not exceed the background noise level (L_{A90}) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.

[USE0165]

59. 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]

60. 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]

61. All plant and equipment installed or used in or on the premises:

- (a) Must be maintained in a proper and efficient condition, and
- (b) Must be operated in a proper and efficient manner.

In this condition, "plant and equipment" includes drainage systems, infrastructure, pollution control equipment and fuel burning equipment.

[USE0315]

62. The disposal of all wash water, oil, grease or other pollutants from the business shall be disposed of to the satisfaction of Council's General Manager or his delegate as outlined in the Liquid Trade Waste Services Agreement and General Conditions of Approval.

[USE1055]

63. Footpath dining activities shall not be carried out unless a Footpath Dining License Agreement has been approved by the General Manager or his delegate. Footpath dining activities shall be restricted to the approved footpath dining area and carried out in accordance with Councils adopted Footpath Dining Policy.

[USE1105]

Amendment 1 was **Carried**

FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr J Owen, Cr W Polglase, Cr P Allsop

AGAINST VOTE - Cr K Milne

Amendment 1 on becoming the Motion was **Carried** - (Minute No **85** refers)

FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr J Owen, Cr W Polglase, Cr P Allsop

AGAINST VOTE - Cr K Milne

4 [PR-PC] Kingscliff Locality Plan Draft Plan Comparison

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**Cr W Polglase
Cr P Allsop**

RECOMMENDED that:

1. Council receives and notes the reported titled Kingscliff Locality Plan Draft Plan Comparison; and
2. Council endorses the Draft Kingscliff Locality Plan (Volumes 1 & 2) and Development Control Plan (Volume 3 - Draft Tweed Development Control Plan, Section A26 – Kingscliff), as previously reported to the 6 July 2017 Planning Committee Meeting, is to be publically exhibited for a minimum period of 42 days, in accordance with Section 18 of the *Environmental Planning Assessment Regulation 2000*;

3. During the public exhibition period conduct 2 combined community public meetings and a 'drop-in' session undertaken by Council staff at Kingscliff; and
4. Following public exhibition a further report is to be submitted to Council detailing the content and response of submissions received.

FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne
AGAINST VOTE - Cr J Owen, Cr W Polglase, Cr P Allsop

AMENDMENT 1

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Cr R Cooper
Cr R Byrnes

PROPOSED that:

1. Council receives and notes the reported titled Kingscliff Locality Plan Draft Plan Comparison; and
2. Council endorses the Draft Kingscliff Locality Plan (Volumes 1 & 2) and Development Control Plan (Volume 3 - Draft Tweed Development Control Plan, Section A26 – Kingscliff), as previously reported to the 6 July 2017 Planning Committee Meeting, is to be publically exhibited for a minimum period of 28 days, in accordance with Section 18 of the *Environmental Planning Assessment Regulation 2000*;
3. During the public exhibition period conduct a public meeting and 'drop-in' session undertaken by Council staff at Kingscliff; and
4. Following public exhibition a further report is to be submitted to Council detailing the content and response of submissions received.

Amendment 1 was **Lost**

FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper
AGAINST VOTE - Cr K Milne, Cr J Owen, Cr W Polglase, Cr P Allsop

AMENDMENT 2

P 88

Cr J Owen
Cr P Allsop

PROPOSED that Council further defers this matter to the September Planning Committee Meeting to enable a further report to be submitted to provide guidance on the required actions under Council's Code of Meeting Practice, and a revision of the documentation that support the advancement of revised Draft Kingscliff Locality Plan documentation to be publicly exhibited, consistent with the concepts that were previously publicly on display in

the Kingscliff Shopfront exhibition in March 2016, and revised to respond to the feedback received during this exhibition.

Amendment 2 was **Lost**

FOR VOTE - Cr J Owen, Cr W Polglase, Cr P Allsop

AGAINST VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne

The Motion was **Carried** - (Minute No 86 refers)

5 [PR-PC] Micro Brewery at No. 592 Cudgen Road, Cudgen - Designated Development

P 89

Cr P Allsop

Cr J Owen

RECOMMENDED that in respect of a request submitted to Council by the owner of No. 592 Cudgen Road, Cudgen, seeking an opinion on the assessment pathway for a proposed microbrewery:

1. Council is of the opinion that the microbrewery is not likely to have a significant effect on the amenity of residential zone neighbourhood that is located within 500 metres of the proposed site by reason of odour, traffic or waste at the scale currently proposed given there are acceptable noise impacts in the context of the rural area and as such will only require a standard Development Application to be submitted; and
2. The General Manager or a delegate advises the owners in writing of this opinion.

The Motion was **Carried**

FOR VOTE - Unanimous

6 [PR-PC] Pocket Herb Noise Assessment - Lot 3 DP 1191598 No. 67 Howards Road, Burringbar

Cr W Polglase temporarily left the meeting at 7.02PM.

Cr C Cherry

Cr R Cooper

RECOMMENDED that Council, in respect of the compliance actions taken in respect of DA13/0712, relating to land described as Lot 3 DP 1191598, No. 67 Howards Road Burringbar, receives and notes this report on the alleged noise impacts from the operation and endorses the following:

1. Operator to prepare and submit to Council an Operation Management Plan reflecting the mitigation measures for operation of Greenhouse 1, identified in the Noise Impact Assessment prior to 7 September 2017;
2. Operator to provide a further Noise Impact Assessment including monitoring at each of the residences, identified in the Noise Impact Study Rev1 dated 180517, identifying all noise sources emanating from the use of the subject site, and including measured background levels, measured dBALAeq 15min levels and measured dBC levels for each day/evening/night period. NIA to include recommendations for further mitigation where identified and submit this to Council prior to 7 September 2017; the results of this verification shall be the subject of a further report to Council;
3. Operator is required to submit to the satisfaction of Council a Noise Impact Assessment prior to the installation of any fans into Greenhouse 2 that demonstrates noise from the operation of Greenhouse 2 will not exceed the approved noise criteria. The assessment is to include the potential cumulative impacts (combined impacts) from the operation of both greenhouses and the mechanical plant equipment on site; the results of this assessment are to be reported back to Council for further review and determination of compliance actions;
4. Operator is not permitted to operate greenhouse 2 until Council is satisfied that there will be no noise impacts above the approved noise criteria and written approval has been issued by Council;
5. Subject to prior Council approval in points 3 and 4, Operator is required to notify Council of the intended date of operation of Greenhouse 2. Within 30 days from the commencement of operation of greenhouse 2 the operator is required to provide verification testing against the approved noise criteria for the operation of both greenhouses and include recommendations for further mitigation where required; and
6. Operator to be advised that acoustic enclosure of the generator, water boiler and any mechanical plant equipment on site is considered necessary and is to be completed by 1 October, 2017

Cr W Polglase has returned from temporary absence at 7.04 PM

The Motion was **Carried**

FOR VOTE - Unanimous

- 7 **[PR-PC] Kings Forest Project Application Modification (Council Reference DA11/0565.03 Department's Reference MP08/0194 MOD 4) which Seeks Approval for a Revised Koala Plan of Management for Kings Forest Development No. 86 Melaleuca Road, Kings Forest**

Cr K Milne declared a Non-Significant, Non-Pecuniary conflict of interest in Item 7 [PR-PC] Kings Forest Project Application Modification (Council Reference DA11/0565.03

Department's Reference MP08/0194 MOD 4) which Seeks Approval for a Revised Koala Plan of Management for 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 90

Cr C Cherry
Cr R Cooper

RECOMMENDED that Council:

1. Endorses that a copy of this report be provided to the NSW Department of Planning as Council's submission on the Kings Forest Project Application Modification (Council Reference DA11/0565.03 Departments Reference Number MP08/0194 MOD 4) which seeks approval for a revised Koala Plan of Management for the Kings Forest Development No. 86 Melaleuca Road, Kings Forest.
2. Includes in the submission that "Council strongly objects to the proposed loss of any further koala habitat or provisions for the protection of koalas in light of the serious jeopardy of the Tweed Coast koalas and considering the recent listing for local endangered population of the Tweed Coast koalas".

The Motion was **Carried**

FOR VOTE - Unanimous

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

P 91

Cr C Cherry
Cr K Milne

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

The Motion was **Carried**

FOR VOTE - Unanimous

There being no further business the Planning Committee Meeting terminated at 7.18 PM.

