



TWEED
SHIRE COUNCIL

Mayor: Cr K Milne

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

Minutes

Planning Committee Meeting Thursday 6 September 2018

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - Section 4.15 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 Secretary 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 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, 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.

(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 4.16 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 4.16 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 4.28 (3) and (4).

(3A) **Development control plans**

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and
- (c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, **standards** include performance criteria.

(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 5.34pm.

IN ATTENDANCE

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

Also present were Mr Troy Green (General Manager), Mr David Oxenham (Director Engineering), Mr Vince Connell (Director Planning and Regulation), Ms Tracey Stinson (Director Community and Natural Resources), Mr Michael Chorlton (Executive Manager Finance, Revenue and Information Technology), Mrs Suzanne Richmond (Executive Manager People, Communication and Governance), Mr Shane Davidson (Executive Officer), Ms Stephanie Papadopoulos (Manager Corporate Governance) and Ms Ann Mesic (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 Pastor Nathan Andreoli:

"Our Father in heaven we acknowledge your presence here today.

We ask that you will guide this meeting for the benefit of those present and those whom they represent.

We pray that the decisions made here will aid in creating a safe, clean and healthy community for all to benefit from.

Thank you for all you have provided us in the past and will provide in the future.

Amen."

APOLOGIES

Nil.

DISCLOSURE OF INTEREST

Nil.

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

- 1 **[PR-PC] Development Application DA16/0936 for a Bulk Loading/Delivery of Extracted Water and Roadworks at Lot 3 DP 815475 No. 350 Rowlands Creek Road, Rowlands Creek**

P 63

**Cr R Byrnes
Cr W Polglase**

RECOMMENDED that Development Application DA16/0936 for a bulk loading/delivery of extracted water and roadworks at Lot 3 DP 815475 No. 350 Rowlands Creek Road, Rowlands Creek be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 21525 D Sheet 1, prepared by B and P Surveys and dated 17/08/16, and the Rowlands Creek Road Traffic and Safety assessment prepared by Bitzios Consulting, dated 24 May 2017, except where varied by the conditions of this consent. [GEN0005]
2. The first water truck cannot access the site until such time as the flood repair works to curve/site 5 and works required as part of Condition 17 are completed and access approved by Council Resolution. [GENNS01]
3. This consent authorises:
 - (a) water extraction from bore GW304537 to the maximum extraction volume of 24 megalitres of water in any 12 month period;
 - (b) infrastructure as identified on the stamped approved Location Plan identified in Schedule 1 of this consent and the provision of two water tanks and an electric pump adjacent to the tanks;
 - (c) Maximum 15m truck with a maximum of three loads of water a day;
 - (d) Hours of operation of the business are restricted to the following hours (including pumping operations):

- * 7am to 6pm - Mondays to Fridays
- * 7am to 6pm - Saturdays
- * No operations are to be carried out on Sundays or Public Holidays
- * All deliveries and pickups relating to the business are to occur within the approved hours

Note: No truck is to enter/exit the site before/after these hours.

- (e) This use is in conjunction with Approval 30CA314315 issued by Water NSW under the Water Management Act 2000. The use must be undertaken in accordance with the provisions of this Approval.
4. The development is to be carried out in accordance with Council's Development Design and Construction Specifications and provided with appropriate stormwater management and erosion and sediment control. [GEN0265]
5. The approved development shall not result in any clearing of native vegetation without prior approval from the relevant authority.
6. The driveway access to 350 Rowlands Creek road is to be constructed to Council's requirements and will be subject to submission and approval via a s138 Roads Act application. [GENNS02]
7. All vehicles entering the subject allotment must enter and exit in a forward direction. [GENNS03]

PRIOR TO COMMENCEMENT OF WORK

8. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved Management Plans or the like, shall be installed/operated in accordance with those conditions or plans. [PCW0015]
9. Prior to commencement of any works on the site, all appropriate erosion and sedimentation control measures are to be installed and maintained throughout the duration of the development. [PCW0985]
10. Warning signage erected in relation to expected heavy vehicle encounters are to be installed on Rowlands Creek Road and the associated costs borne by the developer. [PCWNS01]

DURING CONSTRUCTION

11. All proposed works are to be carried out in accordance with the conditions of development consent, any approved Management Plans, any approved Construction Certificate, drawings and specifications.

12. All necessary roadworks including pruning of vegetation as prescribed in the approved Traffic Assessment Report shall be undertaken strictly in accordance with Australian Standards *AS 4372:2007 Pruning of amenity trees* and *AS 4970:2009 Protection of trees on development sites*

[DUR0005]

13. Should any Aboriginal object or cultural heritage (including human remains) be discovered all site works must cease immediately and the Tweed Byron Local Aboriginal Land Council (TBLALC) Aboriginal Sites Officer (on 07 5536 1763) are to be notified. The find is to be reported to the Office of Environment and Heritage. No works or development may be undertaken until the required investigations have been completed and any permits or approvals obtained, where required, in accordance with the National Parks and Wildlife Act, 1974.

[DUR0025]

14. 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]

15. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

PRIOR TO COMMENCEMENT OF THE OPERATION

16. Section 7.11 Contributions

Payment of the following contributions pursuant to Section 7.11 of the Act and the relevant Contribution Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, the use shall not commence unless all Section 7.11 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 Section 7.11 Contribution 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 7.11 Contribution Plan current at the time of the payment.

A copy of the Section 7.11 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

- (a) Tweed Road Contribution Plan:
6 Trips @ \$2529 per Trips \$15,174
(\$2,239 base rate + \$290 indexation)
S94 Plan No. 4
Sector12b_4

[POC0395]

17. Prior to the commencement of the approved use on the site, application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include (but not limited to) engineering plans and specifications for the following required works:
- (a) Bitumen sealing (or equivalent) of the existing driveway servicing the site to at least the property boundary in accordance with Council's Development Control Plan - Section A2 "*Site Access and Parking Code*" and Council's "*Driveway Access to Property - Design Specification*" (current version), including any driveway widening as required to safely accommodate a 15.0m articulated Water Truck, confirmed by swept paths.
- (b) Road widening and upgrading of Rowlands Creek Road as recommended in the Bitzios - Traffic and Safety Assessment, dated 24 May 2017. These works are to include any recommended safety signage.
18. Truck warning signage at the approaches of the driveway of the subject site from both directions shall be installed to the satisfaction of the General Manager or delegate.
19. Prior to the commencement of the approved use, vegetative screening shall be provided along the eastern side boundary of the site to screen the proposed Water tanks and trucks from adjoining properties. This vegetative screening shall be to the satisfaction of the General Manager or delegate.
20. Prior to Water Trucks transporting extracted water from site, a Certificate of Practical Completion shall be obtained from Council's General Manager or his delegate for all works required under Section 138 of the Roads Act 1993.

[POCNS01]

USE

21. 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]

22. Except as may be expressly provided in a licence approval under the Protection of the Environment Operations Act 1997 (POEO) Act, the licence holder must comply with section 120 of the POEO Act 1997 prohibiting the pollution of waters. [USE0155]
23. 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 (including but not limited to the electric pumps to fill the trucks) 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]
24. 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]
25. 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]
26. 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]
27. Any pump used for water extraction and water transfer/ filling operations are to be installed and operated in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded to the satisfaction of Council's General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation.
28. Only one truck shall be permitted to travel along Rowlands Creek Road or be on site at any one time.
29. One truck is permitted to be on the site at any one time for the purposes of transporting water in association with this consent.
30. No truck movements are to take place on Rowlands Creek Road during school bus travel times.

31. No more than three trucks (3 in 3 out of the site) are permitted per day.
32. The movements of truck of the site in accordance with this development consent is to be maintained in a daily log which records the date and time of all inbound and outbound trucks from the subject site.

At any time, Tweed Shire Council Officers may request a copy of the log to be provided for audit of compliance with conditions of this development consent in regard to the times and frequency of truck movements in and out of the subject site.

The submission of the log at the request by Tweed Shire Council is to be accompanied by a Statutory Declaration by the operator declaring that the information contained in the log is true and correct.

33. The extraction of water in accordance with this development consent is to be maintained in a daily log which records the quantity of water being extracted from the subject site.

At any time, Tweed Shire Council Officers may request a copy of the log to be provided for audit of compliance with conditions of this development consent and any approval or license issued by Water NSW.

The submission of the log at the request by Tweed Shire Council is to be accompanied by a Statutory Declaration by the operator declaring that the information contained in the log is true and correct.

[USENS01]

34. No intensification of use beyond:

- a) The bore water extraction volume is limited to 24 ML / pa:
- b) A maximum of 3 x bulk water collections per day in accordance with the approved hours of operation;
- c) No supplementary or additional water collection vehicles are to service the site without the approval of the General Manager or his delegate.

[USENS02]

35. Prior to Water Trucks transporting extracted water from site, a Certificate of Practical Completion shall be obtained from Council's General Manager or his delegate for all works required under Section 138 of the Roads Act 1993.

[USENS03]

The Motion was **Carried**

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

<p>A NOTICE OF RESCISSION HAS BEEN RECEIVED ON THIS ITEM FROM COUNCILLORS K MILNE, C CHERRY AND R COOPER. THIS RESCISSION MOTION WILL BE DEALT WITH AT THE PLANNING COMMITTEE MEETING OF 4 OCTOBER 2018</p>
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- 2 [PR-PC] Development Application DA17/0573 for a Mixed Use Development Comprising of Creative Industries Precinct over 3 Stages, Establishment of a Bar and Restaurant, Boundary Adjustment/Subdivision and Signage at Lot 1 DP 202712 Brisbane Street, Murwillumbah; Lot 1 DP 439512 No. 1 Brisbane Street, Murwillumbah; Lot 1 DP 123065 & Lots 3 & 4 DP 772263 Wollumbin Street, Murwillumbah

ALTERNATE MOTION

P 64

**Cr W Polglase
Cr J Owen**

RECOMMENDED:

- A. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
- (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
- B. That this item be deferred for a Workshop and that the applicant be invited to revisit their traffic study.

The Motion was **Carried**

FOR VOTE - Unanimous

SUSPENSION OF STANDING ORDERS

P 65

**Cr K Milne
Cr J Owen**

RESOLVED that Standing Orders be suspended to deal with Items 3, 5 and 8 of the Agenda.

The Motion was **Carried**

FOR VOTE - Unanimous

3 [PR-PC] Development Application DA18/0111 for a Depot at Lot 9 DP 9563 No. 130 Tweed Coast Road, Chinderah

P 66

Cr J Owen

Cr P Allsop

RECOMMENDED that Development Application DA18/0111 for a depot at Lot 9 DP 9563 No. 130 Tweed Coast Road, Chinderah 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, as amended in red, except where varied by the conditions of this consent.

Plan No.	Plan title	Drawn by	dated
1	130 Tweed Coast Road, Chinderah	-	Received by Council 05/02/2018
171160-055 2 of 2	Elevations	Designer sheds	undated
171160-055 1 of 2	Plan View	Designed sheds	undated

[GEN0005]

2. This consent approves a depot on Lot 9 DP 9563. The approved depot is limited to the following:

Storage of equipment:

- Concreting plant equipment (to be carried in a standard utility vehicle)
- power tools; and
- yard maintenance equipment (including ride on mower etc.)

[GEN0005]

3. The shed is to only be used as a storage facility (as defined under depot in the Tweed Local Environmental Plan 2014). The shed is not to be used to carry out operations, plant maintenance or as a mechanical workshop.

[GEN0005]

4. All equipment/materials are to be stored within the proposed depot.

[GEN0005]

5. This consent does not grant approval for any onsite employees.

[GEN0005]

6. Access to and from the depot is to be by a single standard vehicle/utility (maximum 5.5m x 1.85m).

[GEN0005]

7. Hours of operation relating to business activities are restricted to the following hours:
- * 7.00am to 7.00pm Mondays to Fridays
 - * 8.00am to 1.00pm on Saturdays
 - * No operations are to be carried out on Sundays or Public Holidays
 - * All deliveries and pickups relating to the business are to occur within the approved hours.
- [GEN0005]
8. Any vehicles that remain on site for periods in excess of two (2) minutes are required to switch off their engines.
- [GEN0005]
9. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
- [GEN0115]
10. 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. Any necessary adjustment or modification of existing services is to be undertaken in accordance with the requirements of the relevant authority, at the Developer's expense.
- [GEN0135]
11. 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]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

12. 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: 1.0 ET @ \$13,632 x 20% = \$2,726.40
Sewer: Nil

[PCC0265]

13. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional runoff or ponding occurring within neighbouring properties.

All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

14. A detailed Plan of Landscaping containing no priority weed species and with a minimum 80% of total plant numbers comprised of local native species to the Tweed Shire is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.

The plan shall be consistent with the stamped plans under condition 1 of this consent.

Local native species are to comprise appropriate species selected from the Tweed Shire Native Species Planting Guide available online at: <http://www.tweed.nsw.gov.au/Controls/NativeSpeciesPlanting/Landing.aspx>

[PCC0585]

15. Site filling and associated drainage is to be designed to address drainage on the site as well as existing stormwater flows onto or through the site, and minimising the impact of filling on local drainage. Detailed engineering plans of fill levels and perimeter drainage shall be submitted for Council approval.

[PCC0675]

16. Design detail shall be provided to address the flood compatibility of the proposed structure including the following specific matters:

- a) Design flood level of RL 3.3m AHD.
- b) Maximum fill level within the lot to be at 2.2m AHD
- c) All building materials used below Council's design flood level must not be susceptible to water damage.
- d) Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level should be suitably treated to withstand continuous submergence in water and provide appropriate earth leakage devices.
- e) Define adequate provision for the flood free storage for goods and equipment susceptible to water damage.

[PCC0705]

17. Fencing detail is to be provided detailing a form that will either allow the free passage of flood water or be of a light construction such as timber paling that will collapse as a result of any build up of floodwater or debris.

[PCC0725]

18. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0945]

19. A Construction Certificate application for works that involve any of the following:

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control 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.

- a) Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee. The Section 68 Application must be approved by Council prior to the associated Construction Certificate being issued.
- b) Where Council is requested to issue a Construction Certificate for subdivision works associated with this consent, the abovementioned works can be incorporated as part of the Construction Certificate application, to enable one single approval to be issued. Separate approval under Section 68 of the Local Government Act will then NOT be required.

[PCC1145]

20. Erosion and Sediment Control shall be provided in accordance with the following:

- (a) The Construction Certificate Application must include a detailed Erosion and Sediment Control Plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

21. 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]

22. Prior to the issue of a construction certificate for the dwelling the applicant shall obtain approval to install an onsite sewerage management system under Section 68 of the Local Government Act 1993. Any approval to install an onsite sewage treatment and disposal system shall comply with the recommended onsite sewage treatment and disposal method as detailed in the On-site Sewage Management Design Report (TE170577D), prepared by Taylor Environmental TE170577D dated 5 July 2018 including all recommendations of that report and any addendum to the report or to the satisfaction of Councils General Manager or delegate.

[PCC1285]

23. A certificate of structural adequacy, by a qualified structural/civil engineer, with regard to the stability of the dwelling as a result of flooding shall be submitted to Council during Construction Certificate phase.

[PCCNS01]

24. The area under the covered awning section of the proposed shed is to be kept clear of obstructions that could interfere with flood waters flows. Only vehicles are to be parked in this area and it is not to be used as storage.

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

25. 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]

26. 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]

27. 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]

28. 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]

29. 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]

30. 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]

31. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required. These measures are to be in accordance with the approved erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

This sign is to remain in position for the duration of the project.

[PCW0985]

32. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of a new (or modification of the existing) driveway access (or modification of access).

Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCW1170]

DURING CONSTRUCTION

33. All proposed works are to be carried out in accordance with the conditions of development consent, any approved Management Plans, approved Construction Certificate, drawings and specifications.

[DUR0005]

34. Commencement of work, including the switching on and operation of plant, machinery and 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]

35. 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]

36. 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]

37. 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 6.6 of the Environmental Planning and Assessment Act 1979.

[DUR0405]

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

[DUR0445]

39. 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]

40. Landscaping of the site shall be carried out in accordance with the submitted/approved Landscaping Plans.
[DUR1045]
41. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.
[DUR1685]
42. 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]
43. 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]
44. 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]
45. 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]
46. 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]
47. 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]
48. All waste shall be collected, stored and disposed of in accordance with the provisions of Tweed Shire Council Development Control Plan Section 15 - Waste Minimisation and Management.
[DUR2195]

49. 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]

50. 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]

51. 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]

52. 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]

53. 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]

54. The Applicant shall submit the appropriate 'Application for Water Service Connection' to Council's Water Unit to facilitate a property service water connection for proposed Lot 9 DP 9563, from the existing water main in Tweed Coast Road. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.

[DUR2800]

55. Swimming pool pumps, air conditioning units, heat pump water systems and the like shall be located, installed and operated so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.

[DUR2835]

56. The exportation or importation of waste (including VENM, ENM and General Solid Waste) from or to the site must be in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW Environmental Protection Authority "Waste Classification Guidelines".

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

57. Prior to issue of an Occupation Certificate, all works/actions/inspections etc required at that stage by other conditions or any approved Management Plans or the like shall be completed in accordance with those conditions or plans.

[POC0005]

58. 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 6.9 and 6.10 unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

59. 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]

60. 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]

61. All landscaping work is to be completed in accordance with the approved plans prior to the issue of a final occupation certificate for the building.

[POC0475]

62. Prior to the occupation and prior to the issue of any occupation certificate for the depot, the applicant shall obtain approval to operate the on-site sewage management facility under Section 68 of the Local Government Act 1993.

[POC1040]

63. 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]

64. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met.

[POC1055]

USE

65. 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]

66. 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]
67. Hours of operation are restricted to the following hours:
- * 8.30am - 5.30pm Mondays to Fridays
 - * No operations are to be carried out on Weekends or Public Holidays
 - * All deliveries and pickups relating to the business are to occur within the approved hours.
- [USE0185]
68. 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]
69. 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 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]
70. Any vehicles that remain on site for periods in excess of two (2) minutes are required to switch off their engines.
- [USE0255]
71. All wastes shall be collected, stored and disposed of in accordance with any approved Waste Management Plan or to the satisfaction of the General Manager or delegate.
- [USE0875]
72. All hazardous and/or dangerous goods shall be stored in accordance with requirements of WorkCover NSW.
- [USE1035]
73. Swimming pool pumps, air conditioning units, heat pump water systems and the like shall not be operated if it can be heard in a habitable room of a residence during restricted hours or at other times should the noise from the article be deemed to be offensive as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.
- [USE1510]
74. The shed is to only be used as a storage facility as defined under *depot* in the Tweed Local Environmental Plan 2014. The shed is not to be used to carry out operations, plant maintenance or as a mechanical workshop without written approval from Council's General Manager or delegate.
-

[USENS01]

75. The use of the depot is to be by a single operator only, no employees shall work from the depot.

[USENS01]

76. Access to and from the depot is to be by a single standard vehicle/utility (maximum 5.5m x 1.85m).

[USENS02]

The Motion was **Carried**

FOR VOTE - Unanimous

5 [PR-PC] Rural Land Strategy - For Adoption

P 67

Cr J Owen
Cr P Allsop

PROPOSED that:

1. The Draft Rural Land Strategy ("Tweed Rural Land Strategy 2036") as attached to this report be adopted;
2. An implementation plan ("Implementation Plan 2018/36") be prepared and reported on annually;
3. Public notice of the Council's decision to adopt the *Tweed Rural Land Strategy 2036* and preparation and annual reporting of the *Implementation Plan 2018/36* is published in the Tweed Link; and
4. A copy of *Tweed Rural Land Strategy 2036* is made available to the Director-General of the Department of Planning and Environment or their delegate for endorsement in accordance with Section 9.1 (Ministerial Direction 1.2) of the *Environmental Planning and Assessment Act 1979*.

AMENDMENT 1

P 68

**Cr R Cooper
Cr K Milne**

RECOMMENDED that this item be deferred to be considered at the next meeting of the Council to be held 25 October 2018.

The Motion was **Carried**

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

Amendment 1 on becoming the Motion was **Carried** - (Minute No P 68 refers)

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

8 [PR-PC] Dwelling Entitlement DE17/0102 - Lot 1 DP 183130 No. 294 Bakers Road, Byangum

ALTERNATE MOTION

P 69

**Cr C Cherry
Cr W Polglase**

RECOMMENDED:

- A. ATTACHMENT 1 & 2 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.
- B. That Council:
 - 1. Acknowledges Clause 35 and determines that Lot 1 DP 183130, No. 294 Bakers Road, Byangum does meet the dwelling entitlement test by virtue of Clause 35 of IDO 2;

2. Reviews the dwelling entitlement savings provisions clauses in Tweed LEP 2014, Tweed City Centre LEP 2012 and Tweed LEP 2000 to remove the need for the complex and cumbersome historic dwelling entitlement searches and bring back a report on options for reviewing the dwelling entitlement process.

The Motion was **Carried**

FOR VOTE - Unanimous

RESUMPTION OF STANDING ORDERS

P 70

**Cr K Milne
Cr P Allsop**

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

- 4 **[PR-PC] Development Application DA12/0215.01 for an Amendment to Development Consent DA12/0215 for Change of Use to Daytime Respite Care Centre with Associated Signage, Car Parking and Landscaping at Lot 23 DP 8100 No. 9 Boyd Street, Tweed Heads**

P 71

**Cr W Polglase
Cr J Owen**

RECOMMENDED that Development Application DA12/0215.01 for an amendment to Development Consent DA12/0215 for change of use to daytime respite care centre with associated signage, car parking and landscaping at Lot 23 DP 8100; No. 9 Boyd Street, Tweed Heads be approved for a 12 month trial period subject to the following conditions:

1. **Delete condition 75 and replace with Condition 75A which reads as follows:**

75A. Hours of operation of the business for a maximum period of 12 months from the date of this amended consent are restricted to the following hours:

- * Mondays to Fridays: 8am to 5pm (staff access); 8.00am to 4.00pm (client access).
- * Weekends and Public Holidays: 8am to 5pm (staff access); 9.00am to 2.00pm (client access): and
- * Maximum 12 'events' per year permitted to operate anytime between 8am and 5.30pm, or between 8am and 7.00pm during Daylight Savings Time.

Following the lapse of the 12 month period the hours of operation shall be restricted to:

- * Mondays to Fridays: 9am to 5pm (staff access); 10am to 4pm (client access)
- * Weekends and Public Holidays: 9:30am to 2:30pm (staff access); 10am to 2pm (client access).

The Motion was **Carried**

FOR VOTE - Unanimous

6 [PR-PC] Request to amend Tweed Development Control Plan 2008 Section B15 Seabreeze Estate Pottsville 'Potential School Site' (Lot 1747 DP 1215252)

P 72

**Cr C Cherry
Cr K Milne**

RECOMMENDED that:

1. The request to remove reference to 'potential school site' from Tweed Development Control Plan 2008 section B15 is not supported;
2. The General Manager is to investigate options through a planning proposal to change the zoning of the site to a zone which more closely aligns with the Developer's original commitment, which was to provide a public net benefit by way of allocation of land for educational purposes, as depicted in Tweed Development Control Plan 2008 section B15; and
3. An independent valuation to determine market valuation difference between the existing R2 Low Density Residential and an applied Special Purpose - Education zoning (SP1) would assist with Council's consideration of the potential use or uptake of the land and is to be undertaken only if the Proponent agrees to pay Council's costs of having one prepared.

The Motion was **Carried**

FOR VOTE - Unanimous

7 [PR-PC] Work Priorities Plan 2018-19 - Strategic Planning & Urban Design Unit

ALTERNATE MOTION

P 73

**Cr K Milne
Cr C Cherry**

RECOMMENDED that:

1. The Work Priorities Plan 2018-19 for the Strategic Planning and Urban Design Unit, provided as Table 1 to this report is adopted with the following changes:
 - a) The Fingal Head and Chinderah Locality Plan be treated as two separate locality plans and these plans along with the building heights review, be elevated to a priority 1 status,
 - b) The Environmental Zone review be elevated to a priority 1 status,
 - c) The MO conversion at Round Mountain and the Stokers Siding Planning Proposal be removed from the work program,
2. A further report be bought back to the October meeting on how the work program may need to be further adjusted to accommodate the above.
3. Any new planning proposals not be accepted until July 2019 and the Department of Planning and Environment to be duly notified.
4. A further Councillor workshop and work plan report be initiated in July 2019.

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 C Cherry

Cr K Milne

RECOMMENDED that Council notes there are no variations for the month of August 2018 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 6.50pm.

