

**Mayor:** Cr K Milne

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

# Minutes

## Planning Committee Meeting Thursday 7 March 2019

held at  
**Council Chambers, Murwillumbah Civic & Cultural Centre, Tumbulgum Road, Murwillumbah**  
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 5.37pm.

### **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 David Oxenham (Director Engineering), Mr Vince Connell (Director Planning and Regulation), Mr Michael Chorlton (Executive Manager Finance, Revenue and Information Technology), Mr Mathew Greenwood (Acting 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 Robert Spence.

#### **Reading Romans 12:6-8**

***We have different gifts, according to the grace given us.***

***If a man's gift is prophesying, let him use it in proportion to his faith.***

***If it is serving him, let him serve;***

***If it is teaching, let him teach;***

***If it is encouraging, let him encourage;***

***If it is contributing to the needs of others, let him give generously;***

***If it is leadership, let him govern diligently;***

***If it is showing mercy, let him do it cheerfully.***

*Heavenly Father, we ask that by your Holy Spirit you inspire each one here today with the qualities of your good counsel.*

*Give insight that wise decisions may be made,*

*That there would be integrity to face the truth,*

*Courage to make difficult choices and*

*Compassion for the needs of others.*

*Cause each one here today to be a model of justice and honour for our shire and let us never forget that our job is to serve both you and others.*

*May we receive into our arms the light of your revelation?*

*Father we ask it in Jesus name*

*Amen*

## **APOLOGIES**

Nil.

## **DISCLOSURE OF INTEREST**

Nil.

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

Nil.

## **REPORTS THROUGH THE GENERAL MANAGER**

### **REPORTS FROM THE DIRECTOR PLANNING AND REGULATION**

- 1 [PR-PC] Development Application DA18/0661 for a Change of Use and Fit-out of Portion of Managers Residence to Take Away Food and Drink Premises at Lot 100 DP 1117102 No. 61 Marine Parade, Kingscliff**

**P 10**

**Cr W Polglase  
Cr J Owen**

**RECOMMENDED that Development Application DA18/0661 for a change of use and fit-out of portion of managers residence to take away food and drink premises at Lot 100 DP 1117102 No. 61 Marine Parade, Kingscliff 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 Sheet 1 of 6 Site Plan, Sheet 3 of 6 Proposed Ground Floor Plan, Sheet 4 of 6 Proposed Café Floor Plan, Sheet 5 of 6 Kitchen Elevation A-C and Kiosk Elevation A-D, and Sheet 6 of 6 Northern Elevation (open - closed) Western Elevation (open - closed) prepared by Parameter Designs and dated 14 January 2019, except where varied by the conditions of this consent.**  
[GEN0005]
- 2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**  
[GEN0115]
- 3. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property. 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]

4. 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]

5. This Development Consent authorizes the construction of a footpath as shown on Plan no. Sheet 3 of 6 Proposed Ground Floor Plan as amended by Council in blue and black ink to connect the take away food and drink premises with the existing curved path in Rowan Robinson Park. Such footpath is to be constructed prior to occupation of the take away food and drink premises.

[GENNS02]

6. All walls in the food preparation and storage areas shall be of solid construction. For this purpose walls in such areas may be of masonry or stud wall construction. If stud wall construction is used then the wall shall be lined as a minimum with 9mm thick high impact resistant material eg. Villaboard or Versilux lining or other suitable material(s) approved by Council's Environmental Health Officer and tiled to a height of at least 2 metres.

Masonry walls where not tiled may be cement rendered to provide a smooth faced impervious finish up to the underside of the ceiling.

Metal stud wall framing in lieu of timber framing shall be used in areas where the walls and floor surfaces will be subjected to high levels of moisture or alternatively as directed by Council's Environmental Health Officer.

All penetrations of the wall surface in food preparation areas shall be effectively sealed to the satisfaction of Council's Environmental Health officer.

[GENNS02]

7. All flooring materials in the food preparation and storage areas are to be impervious, non slip, non abrasive and capable of withstanding heavy duty operation. Where tiling is to be used epoxy grout finished flush with the floor surface is to be used in joints or alternatively all tiles are to be butt joined and free of cracks or crevices

[GENNS02]

8. Windows and doors opening into food handling, preparation and storage areas shall be pest proofed in accordance with the provisions of Food Safety Standard 3.2.3.

[GENNS02]

9. Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of the General Manager or his delegate.

[GENNS02]

10. All shelving, benches, fittings and furniture on which appliances and utensils are positioned within the premises must be of durable, smooth, impervious material capable of being easily cleaned.

[GENNS02]

11. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council prior to the occupation of the building or issue of Interim or Final Occupation Certificate (whichever comes first), 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, an Occupation 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

[GENNS03]

12. In accordance with Section 68 of the Local Government Act, 1993 any premises proposing to discharge wastewater into Council's 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 Building Certificate to discharge to Council's sewerage system.
13. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) by this development shall be repaired in accordance with Council's Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[GENNS04]

**PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

14. 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]
15. 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]
16. 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]



17. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval. [POC0615]
18. The premises is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request. [POC0635]
19. 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]
20. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met. [POC1055]
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 water, sewerage or drainage works relating to the take away food and drink premises prior to the issue of a Construction Certificate. This application is to include work as constructed sanitary drainage plans and certification of works in respect of AS3500 prepared by a licensed plumber relating to the food and drink premises. [POCNS01]
22. Prior to the issue of an occupation certificate a Building Information Certificate is to be applied for and obtained from Council in respect of the take away food and drink premises. This application is to include work as constructed sanitary drainage plans and certification of works in respect of AS3500 prepared by a licenced plumber relating to the food and drink premises. [POCNS01]

## USE

23. 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]
24. Hours of operation of the business are restricted to 6.00am to 3.00pm, 7 days. [USE0185]
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. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act 2003*, FSANZ Food Safety Standards and AS 4674-2004 Design, construction and Fit-out of Food Premises and other requirements of Councils Environmental health Officer included in this approval. [USE0835]

27. The premises shall be maintained in a clean and tidy manner.

[USE0965]

28. 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]

29. No tables and chairs are to be erected for use by the food and drink premises.

[USENS01]

The Motion was **Carried**

***FOR VOTE - Unanimous***

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## **2 [PR-PC] Draft Kingscliff Locality Plan - Exhibition Consultation Report**

### **ALTERNATE MOTION**

**P 11**

**Cr R Cooper**

**Cr K Milne**

**RECOMMENDED** that Council:

1. Defers consideration of this report until the Planning Committee meeting of 4 April 2019 in order for a position to be resolved about the site of the proposed Tweed Valley Hospital.
2. Requests the State Government to publicly release the Tweed Health Precinct Background and Scenario Analysis report as prepared by Destravis Group on behalf of the Department of Planning and Environment.

The Motion was **Carried**

***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***

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

**P 12**

**Cr C Cherry**

**Cr P Allsop**

**RECOMMENDED** that Council notes there are no variations for the month of January 2019 to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

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The Motion was **Carried**

***FOR VOTE - Unanimous***

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There being no further business the Planning Committee Meeting terminated at 6.02pm.

