



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 5 September 2019

held at
Council Chambers, Murwillumbah Civic & Cultural Centre, Tumbulgum Road, Murwillumbah
commencing at 5.30pm

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The Meeting commenced at 5.38pm.

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 Tim Mackney (Acting Director Engineering), Mr Vince Connell (Director Planning and Regulation), Ms Tracey Stinson (Director Sustainable Communities and Environment), Mr Michael Chorlton (Executive Manager Finance, Revenue and Information Technology), Mrs Suzanne Richmond (Executive Manager People, Communication and Governance), 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 General Manager.

APOLOGIES

Nil.

DISCLOSURE OF INTEREST

Nil.

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

Nil.

SUSPENSION OF STANDING ORDERS

P 59

Cr K Milne
Cr P Allsop

RESOLVED that Standing Orders be suspended to deal with Items 5, 1, 2, 9 and 3 of the Agenda.

The Motion was **Carried**

FOR VOTE - Unanimous

5 [PR-PC] Rural Land Strategy - Response to Public Exhibition and Final Draft for Adoption

ALTERNATE MOTION

P 60

**Cr C Cherry
Cr R Byrnes**

RECOMMENDED that this item be deferred for a facilitated Workshop to discuss the draft Rural Land Strategy as attached to this report as previously resolved at the Council meeting of 15 August 2019 (ie., comprising a maximum of three representatives from each of the Combined Tweed Rural Industries Association, Tweed Rural Sustainable Alliance and Tweed Canegrowers Association to discuss the way forward with the Rural Land Strategy) and that in addition Council also invites the Department of Planning, Industry and Environment, the Department of Primary Industries and 3 representatives from the Tweed Fruit and Vegetable Growers Association.

The Motion was **Carried**

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

AGAINST VOTE - Cr J Owen

1 [PR-PC] Development Application DA18/0485 for Application for a Staged Development Consisting of Three Dwellings over Three Stages (One Dwelling Per Stage) at Lot 3 DP 371134 No. 141 Byangum Road, Murwillumbah

P 61

**Cr P Allsop
Cr J Owen**

RECOMMENDED that:

- A. Development Application DA18/0485 for application for a staged development consisting of three dwellings over three stages (one dwelling per stage) at Lot 3 DP 371134 No. 141 Byangum Road, Murwillumbah 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 DA2.0 issue E, DA2.3 issue E, DA2.4 issue E, DA(1)2.0 issue E, DA(1)2.1 issue E, DA(1)3.0 issue E, DA(1)3.1 issue E, DA(1)4.0 issue E, DA(2)2.0 issue C, DA(2)2.1 issue C, DA(2)3.0 issue C, DA(2)3.1 issue C, DA(2)4.0 issue C, DA(3)2.0 issue C, DA(3)2.1 issue C, DA(3)3.0 issue C, DA(3)4.1 issue C, DA(3)5.0 issue C, prepared by iphorm and dated September, except where varied by the conditions of this consent.
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[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. A sewer manhole is 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]

5. The owner is to ensure that the proposed dwellings are 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]

6. Bushfire Design and Construction

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

- (a) Construction shall comply with Australian Standard AS3959-2009 'Construction of buildings in Bush Fire-prone areas', Bushfire attack Level (BAL) 12.5 for each dwelling.
- (b) The development is to be completed in accordance with the Bushfire threat Assessment Report prepared by Bushfire Certifiers dated 10 January 2018 Ref:8/002.

[GEN0335]

7. A minimum 3.0 metre easement shall be created over ALL the existing public sewerage infrastructure on the lot.

8. Water and sewerage reticulation for all dwellings shall be connected so that there is only connection to Council's public water and sewer infrastructure.

[GENNS01]

9. The development is to be in accordance with the Stormwater Management Plan by Northern Rivers Structure consulting engineers dated 18 April 2019.

[GENNS01]

10. Geotechnical investigations and assessment of the subject site shall be in accordance with the recommendations and requirements as specified in the Geotech Investigations Pty Ltd report, dated 11 December 2017, except where varied by the conditions of this consent.

All individual house sites are subject to further geotechnical testing at time of building approval.

[GENNS02]

11. The landscaping is to be undertaken in general accordance with the approved landscaping plans. The landscaping must contain no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species. Additional tree planting be provided along the side and rear boundaries for privacy screening purposes, subject to compliance with the Department of Planning, Industry and Environment's "Planning for Bushfire" guidelines, and should not conflict with any vegetation restrictions for proposed utility easements.

[GENNS03]

12. Additional privacy screening be provided as follows:

- (a) House 1 - the existing proposed 1.8 metre high, opaque material privacy screening long the eastern elevation of both upper and lower level balconies be extended and wrapped around to the northern face of these balconies by one metre; and
- (b) House 3 - new 1.8 metre high, opaque material privacy screens be provided along the western elevation of both upper and lower level balconies.

13. This consent relates to a staged development as follows:

Stage 1 relates to the construction of dwelling number 1.
Stage 2 consists of the construction of dwelling number 2.
Stage 3 consists of the construction of dwelling number 3.

All conditions within this consent are to be applied to each relevant stage, where applicable.

[GENNS04]

14. No parking of vehicles is permitted within the Right Of Way.

[GENNS05]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

15. 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, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 7.11 Contributions for each stage have been paid and

the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council (no contributions for stage 1 are required).

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.

Stage 2

- | | |
|---|---------|
| (a) Tweed Road Contribution Plan:
2.6 Trips @ \$1570 per Trips
(\$1,317 base rate + \$253 indexation)
CP Plan No. 4
Sector9_4 | \$4,082 |
| (b) Open Space (Casual):
1 ET @ \$659 per ET
(\$502 base rate + \$157 indexation)
CP Plan No. 5 | \$659 |
| (c) Open Space (Structured):
1 ET @ \$754 per ET
(\$575 base rate + \$179 indexation)
CP Plan No. 5 | \$754 |
| (d) Shirewide Library Facilities:
1 ET @ \$985 per ET
(\$792 base rate + \$193 indexation)
CP Plan No. 11 | \$985 |
| (e) Bus Shelters:
1 ET @ \$75 per ET
(\$60 base rate + \$15 indexation)
CP Plan No. 12 | \$75 |
| (f) Eviron Cemetery:
1 ET @ \$140 per ET
(\$101 base rate + \$39 indexation)
CP Plan No. 13 | \$140 |
| (g) Community Facilities (Tweed Coast - North)
1 ET @ \$1624 per ET
(\$1,305.60 base rate + \$318.40 indexation)
CP Plan No. 15 | \$1,624 |

- (h) Extensions to Council Administration Offices
& Technical Support Facilities
1 ET @ \$2195.88 per ET \$2,195.88
(\$1,759.90 base rate + \$435.98 indexation)
CP Plan No. 18
- (i) Cycleways:
1 ET @ \$555 per ET \$555
(\$447 base rate + \$108 indexation)
CP Plan No. 22
- (j) Regional Open Space (Casual)
1 ET @ \$1282 per ET \$1,282
(\$1,031 base rate + \$251 indexation)
CP Plan No. 26
- (k) Regional Open Space (Structured):
1 ET @ \$4500 per ET \$4,500
(\$3,619 base rate + \$881 indexation)
CP Plan No. 26

Stage 3

- (a) Tweed Road Contribution Plan:
2.6 Trips @ \$1570 per Trips \$4,082
(\$1,317 base rate + \$253 indexation)
CP Plan No. 4
Sector9_4
- (b) Open Space (Casual):
1 ET @ \$659 per ET \$659
(\$502 base rate + \$157 indexation)
CP Plan No. 5
- (c) Open Space (Structured):
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(\$575 base rate + \$179 indexation)
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(\$3,619 base rate + \$881 indexation)
CP Plan No. 26 | \$4,500 |

[PCC0215/POC0395/PSC0175]

16. 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:

Stage 1

Water = Nil
Sewer = Nil

Stage 2

Water = 0.4 ET @ \$13,926 = \$5,570.40
Sewer = 1.0 ET @ \$6,690 = \$6,690

Stage 3

Water = 0.8 ET @ \$13,926 = \$11,140.80

Sewer = 1.0 ET @ \$6,690 = \$6,690

[PCC0265]

17. Prior to construction certificate of Stage One, details from a Structural Engineer are to be submitted to the Water Authority for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the sewer main or other underground infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate.
18. Prior to construction certificate of Stages Two and Three, Details from a Structural Engineer are to be submitted to the Principal Certifying Authority for approval for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the sewer main or other underground infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate.
[PCC0935]
19. The footings and floor slab to the dwelling/s is/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]
20. For developments containing less than four attached or detached strata dwellings having a Building Code classification of 1a, each premises must be connected by means of a separate water service pipe, each of which is connected to an individual Council water meter to allow individual metering. Application for the meters shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.
[PCC1175]
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. If the development is likely to disturb or impact upon water or sewer infrastructure (eg: extending, relocating or lowering of pipeline), written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.

Applications for these works must be submitted on Council's standard Section 68 Application form accompanied by the required attachments and the prescribed fee. The arrangements and costs associated with any adjustment to water and wastewater infrastructure shall be borne in full by the applicant/developer.

The Section 68 Application must be approved by Council prior to the associated Construction Certificate being issued.

[PCC1310]

23. Prior to the issue of a Construction Certificate for Subdivision Works, application shall be made to Council under Section 305 of the Water Management Act 2000 for a certificate of compliance for development to be carried out - i.e.: the provision of water and sewerage to the development.

Note:

- (a) Following this, requirements shall be issued by Council under Section 306 of the Water Management Act 2000.
- (b) Following this, any works needing to be undertaken will require a further application to be made to Council under Section 68 of the Local Government Act for the relevant water / sewer works. Approval of this application will be required prior to/in conjunction with issuing the Construction Certificate.

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC1335]

24. Prior to Construction Certificate of Stage One, the applicant is required to physically locate the actual location of the 150mm diameter sewer pipeline infrastructure on Lot 3 DP 371134. A Construction Certificate shall NOT be issued by a Certifying Authority unless the Certifying Authority is satisfied that plans show the actual location of the sewer pipelines, actual depth of the sewer dead end and actual depth of the sewer manholes.
25. Prior to Construction Certificate of Stage One, plans shall be provided to the Water Authority to demonstrate that the dwelling structures shall meet the Tweed Shire Council Development Design Specification D15 - Work in Proximity. Plans shall show that footings are located external to the sewer easement and also located below the sewer zone of influence.

[PCCNS01]

26. Safety rails, compliant with the Building Code of Australia are to be provided along the existing retaining wall (adjacent to the driveway) or any new constructed retaining walls where height exceeds 1.0m in height.

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

27. 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]

28. 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]

29. 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]

30. Residential building work:

- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - * in the name and licence number of the principal contractor, and
 - * the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - * the name of the owner-builder, and

* if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

(b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

31. 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]

32. 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]

33. 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]

34. 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

35. 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]

36. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans.

[DUR0015]

37. 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]

38. 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 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 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]

39. 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]

40. Building materials used in the construction of the dwelling/s is/are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council. [DUR0395]
41. 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]
42. 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]
43. 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]
44. The finished floor level of the building should finish not less than 225mm above finished ground level. [DUR0445]
45. The development is to be carried out in accordance with the current BASIX certificate/s and schedule of commitments approved in relation to this development consent. [DUR0905]
46. 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]
47. 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]
48. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.

[DUR1945]

49. 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]

50. 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]

51. 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]

52. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.

[DUR2425]

53. 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]

54. 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]

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

[DUR2505]

56. 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]

57. 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]

58. No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main.

[DUR2705]

59. The Applicant shall submit the appropriate 'Application for Water Service Connection' form to Council's Water Unit to facilitate a property service water connection for proposed Lot 3 DP 371134, from the existing water main in Byangum Road. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.

[DUR2800]

60. Works in the vicinity of public infrastructure must comply with the following requirements;

- a) No portion of any structure may be erected within any easement or within one metre where no easement exists for public infrastructure over the subject site. All structures shall be designed and sited such that all structure loads will be transferred to the foundation material outside of the zone of influence of any public infrastructure.
- b) Surface treatment over the sewer pipe shall be limited to soft landscaping, noninterlocking 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.
- c) Any fencing erected across the sewer main shall be designed and constructed with removable panels and footings located at least 1.0 metres horizontally clear of sewer main.
- d) Trees and other landscaping that will grow to over one metre in height at maturity are not permitted within the sewer easement or within one metre of the sewer if no easement exists, to prevent the tree roots intruding into sewer mains and internal sewer pipes. Landscaping over the sewer shall be of a minor nature designed to ensure they do not damage or interfere with any part of the pipeline.

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

61. 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]

62. 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]

63. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:
- (a) The use of any accommodation shall be limited to only the people permitted by the restrictions of occupation provisions under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
64. 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.
65. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met.
66. Prior to the issue of an Occupation Certificate, documentary evidence shall be provided to Council to confirm the registration of Easements for services, Rights Of Carriageway and Restrictions As To User, as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:
- (a) A 3m wide easement is to be registered over the existing sewer in favour of Council.

[POC0860]

[POC1045]

[POC1055]

[POCNS01]

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the Right Of Carriageway / Easement shall make provision for maintenance of the Right Of Carriageway / Easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

USE

67. 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.
68. 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.

[USE0125]

[USE0175]

69. 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]
70. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street. [USE0435]
71. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building. [USE0735]
72. All wastes shall be collected, stored and disposed of to the satisfaction of the General Manager or his delegate. [USE0875]
- B. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

The Motion was **Carried**

FOR VOTE - Unanimous

- 2 [PR-PC] Development Application DA18/0486 for a Concept Development Application for 10 Group Homes (Permanent) and Development of Stage 1 for Two Group Homes (Permanent) Containing 14 Units at Lot 6 DP 524303 No. 26 George Street, Murwillumbah**

This item was considered in conjunction with the Addendum Report at Item 9 of the 5 September 2019 agenda.

- 9 ADDENDUM [PR-PC] Development Application DA18/0486 for a Concept Development Application for 10 Group Homes (Permanent) and Development of Stage 1 for Two Group Homes (Permanent) containing 14 Units at Lot 6 DP 524303 No. 26 George Street, Murwillumbah**

P 62

**Cr P Allsop
Cr J Owen**

RECOMMENDED that Development Application DA18/0486 for a concept development application for 10 group homes (permanent) and development of Stage 1 for two group homes

(permanent) containing 14 units at Lot 6 DP 524303 No. 26 George Street, Murwillumbah be refused for the following reasons:

1. The proposal for the development of 10 Group Homes which includes seven detached Group Home buildings containing up to 7 - 8 self-contained dwellings is prohibited in Zone RU2, where the development would be characterised as 'multi dwelling housing' which is a species of 'residential accommodation' that is prohibited in Zone RU2.
2. The proposal for the development of 10 Group Homes is not considered to satisfy the definition of a Permanent Group Home as set out in the Tweed Local Environmental Plan 2014, which classifies the land use as:

'a dwelling:

(a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and

(b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,

but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.'

It is considered that a building containing up to 7 - 8 self-contained units does not constitute a 'dwelling' as that term is defined in the Tweed Local Environmental Plan 2014 and further that the applicant has not demonstrated to the satisfaction of Council that each building will be 'occupied by persons as a single household'.

3. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

The Motion was **Carried**

FOR VOTE - Unanimous

- 3 **[PR-PC] Development Application DA19/0265 for a Two Lot Boundary Adjustment including Consolidation of 3 Closed Road Lots at Lot 1 DP 183130 No. 294 Bakers Road, Byangum; Lots 1-3 DP 1243056 No. 520-522 Bakers Road, Byangum; Lot 1 DP 583624 No. 522 Bakers Road, Byangum**

ALTERNATE MOTION

P 63

**Cr C Cherry
Cr W Polglase**

RECOMMENDED that:

- A. Development Application DA19/0265 for a two lot boundary adjustment including consolidation of 3 closed road lots at Lot 1 DP 183130; No. 294 Bakers Road, Byangum; Lots 1-2 DP 1243056 No. 520-522 Bakers Road, Byangum; Lot 1 DP 583624; No. 522 Bakers Road, Byangum be approved subject to the following conditions:

"DEFERRED COMMENCEMENT"

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within 3 months of the date of notification.

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

SCHEDULE "A"

Conditions imposed pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act, 1979 and Section 95 of the Regulations as amended.

- A. Provide to Council for approval, wording for a Restriction under Section 88B of the Conveyancing Act that prohibits in perpetuity any further subdivision of proposed Lots 12 & 13, including boundary adjustment that would create additional lots with a dwelling entitlement. The wording of the restriction is to state that the restriction burdens both lots and benefits Tweed Shire Council and cannot be removed except by a resolution of Council.

Burdened: Lots 12 and 13
Benefit: Tweed Shire Council

SCHEDULE B

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

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan No. 23058D Sheets 1 & 2, as amended in red, prepared by B & P Surveys and dated 14 February 2019, except where varied by the conditions of this consent.
[GEN0005]
2. The subdivision is to be carried out in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design and Construction Specifications.
[GEN0125]

3. Future subdivision, including boundary adjustment, of Lots 12 and 13 is not permitted if it will create additional lots with a dwelling entitlement unless an amendment to the Tweed Local Environmental Plan allows for the subdivision of the lot.

[GENNS01]

DURING CONSTRUCTION

4. 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]

5. 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]

6. 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]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

7. Prior to issue of a Subdivision Certificate, all works/actions/inspections etc required by other conditions or approved Management Plans or the like shall be completed in accordance with those conditions or plans.

[PSC0005]

8. A Restriction as to user over proposed Lot 12 and Lot 13 is to be created under Section 88B of the Conveyancing Act 1919 in accordance with that approved by Council under Schedule A of this consent. The Section 88B Instrument creating the Restriction is to benefit Council and shall include a provision enabling the Restriction to be revoked only by a resolution of Council.

[PSC0805]

9. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.

[PSC0825]

10. In accordance with clause 60 of the Surveying and Spatial Information Regulation 2012 the Plan of Subdivision (Deposited Plan) shall show the approved street address for each lot on the new Deposited Plan.

Furthermore, prior to the issue of a Subdivision Certificate, each lot shall have its' address number displayed in accordance with Council's procedure on street numbering.

[PSC0845]

11. Prior to registration of the Plan of Subdivision, a Subdivision Certificate shall be obtained.

The following information must accompany an application:

- (a) Submission of all documentation electronically (in pdf format), plus the original Plan of Subdivision (and original Admin Sheets) prepared by a registered surveyor together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (b) All detail as tabled within Tweed Shire Council's Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0885]

12. The production of written evidence from the local telecommunications supply authority certifying that the provision of telecommunications at the boundary of (or within) both allotments has been completed, unless agreed otherwise by Council.

An acceptable form is Telstra's "*Telstra Network Infrastructure Letter*" or NBN's "*Provisioning of Telecommunication Services - Confirmation of final payment*" letter (for small subdivisions)/ "*Certificate of Practical Completion of NBN network infrastructure*" letter (for large subdivisions) (as applicable to the development).

The NBN letter must reference:

- Over which Lot and Deposited Plan the agreement applies to,
- Identification of the number of lots to be serviced.

[PSC1165]

13. Electricity (rural subdivisions)

The production of written evidence from the local electricity supply authority certifying that the reticulation and ENERGISING OF LOW VOLTAGE electricity has been provided to each allotment (unless agree otherwise by Council and the local electricity supply authority).

All associated electricity supply works must be designed by an authorised Level 3 Accredited Service Provider and works undertaken by an authorised Level 1 Accredited Service Provider.

An acceptable letter from the local electricity supply authority is Essential Energy's "Notice of Arrangement".

Unless agreed otherwise by Council, the letter from the local electricity supply authority must reference:

- Over which lot and Deposited Plan did the arrangement for the supply of electricity (and street lighting, as applicable) apply to,
- Identification of the proposed lots to be created that have been serviced, or the development stage to which the arrangement applies.

Should any electrical supply authority infrastructure (sub-stations, switching stations, cabling etc) be proposed to be located on Council land (existing or future), then Council's consent is to be obtained and Council included in all negotiations. Appropriate easements are to be created over all such infrastructure, whether on Council lands or private lands.

Compensatory measures may be pursued by the General Manager or his delegate for any significant effect on Public Reserves or Drainage Reserves.

Where is it agreed by both Council and the local electricity supply authority for an allotment to be serviced by existing high voltage overhead electricity instead of low voltage, a POSITIVE COVENANT shall be imposed advising that the registered proprietor of the Lot burdened shall have to carry out additional works, including installation of substations to provide low voltage supply prior to any dwelling being erected on the Lot burdened.

[PSC1175]

14. Prior to registration of the Plan of Subdivision, 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, including (but not limited to) the construction of a new, vehicular access 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) servicing proposed Lot 13 off Bakers Road.

The driveway to proposed Lot 13 shall be located to minimise the disturbance to existing vegetation (including sight lines) and is to be endorsed by Council's Sustainability and Environment Unit. The driveway shall be sealed from the edge of Bakers Road to the property boundary.

[PSCNS01]

15. Prior to the issue of a Subdivision Certificate, the applicant shall produce a copy of the "Satisfactory Inspection Report" issued by Council for all works required under Section 138 of the Roads Act 1993.

[PSCNS02]

16. Prior to the issue of subdivision certificate the applicant shall install the on-site sewage management system within existing Lot 1 DP392040 boundaries as

approved under application SEP19/0058 to the satisfaction of Council and obtain approval to operate the new system as installed.

[PSCNS03]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

1. Any alteration to the electricity network required to service the subdivision shall comply with either section 4.1.3 of 'Planning for Bush Fire Protection 2006' or the requirements of Essential Energy NSW.
- B. That Council includes in the Strategic Planning Unit work program an amendment to the Tweed Local Environmental Plan 2014 (Clause 4.1(C)) to generally permit changes to boundaries of existing undersized lots that will not result in lots that could be further subdivided and create a dwelling entitlement.
- C. In the Council notification of the development consent to the applicant, the applicant be advised that the site is mapped as being a Predictive or Known area for Aboriginal cultural heritage under Council's Aboriginal Cultural Heritage Management Plan. Landowners should be aware of the legislative requirements of the National Parks and Wildlife Act 1974 relating to 'harm' of an Aboriginal object.

The Motion was **Carried**

FOR VOTE - Unanimous

RESUMPTION OF STANDING ORDERS

P 64

Cr K Milne

Cr C Cherry

RESOLVED that Standing Orders be resumed.

The Motion was **Carried**

FOR VOTE - Unanimous

ITEMS BY EXCEPTION

Nil.

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 1 **[PR-PC] Development Application DA18/0485 for Application for a Staged Development Consisting of Three Dwellings over Three Stages (One Dwelling Per Stage) at Lot 3 DP 371134 No. 141 Byangum Road, Murwillumbah**

This item was dealt with earlier in the meeting (Minute No P61 refers).

- 2 **[PR-PC] Development Application DA18/0486 for a Concept Development Application for 10 Group Homes (Permanent) and Development of Stage 1 for Two Group Homes (Permanent) Containing 14 Units at Lot 6 DP 524303 No. 26 George Street, Murwillumbah**

This item was dealt with earlier in the meeting (Minute No P62 refers).

- 3 **[PR-PC] Development Application DA19/0265 for a Two Lot Boundary Adjustment including Consolidation of 3 Closed Road Lots at Lot 1 DP 183130 No. 294 Bakers Road, Byangum; Lots 1-3 DP 1243056 No. 520-522 Bakers Road, Byangum; Lot 1 DP 583624 No. 522 Bakers Road, Byangum**

This item was dealt with earlier in the meeting (Minute No P63 refers).

- 4 **[PR-PC] Development Application DA17/0564.01 for an Amendment to Development Consent DA17/0564 for Dwelling Alterations and Additions at Lot 1 DP 1241037 No. 125 River Street, South Murwillumbah**

ALTERNATE MOTION

P 65

Cr P Allsop
Cr W Polglase

RECOMMENDED that:

1. Development Application DA17/0564.01 for an amendment to Development Consent DA17/0564 for dwelling alterations and additions at Lot 1 DP 1241037 No. 125 River Street, South Murwillumbah be approved subject to the conditions of consent being amended as below and also that Council writes to the Principal Certifying Authority of this development suggesting that they modify their processes and issue a stop work notice should a similar situation occur.

1. Delete Condition No. 1 and replace it with Condition No. 1A which reads as follows:

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

Date	Plan No.
03/03/19	P1 - P7
15/05/19	CSP, P8 to P10

2. Delete Condition No. 6.

3. Add new Condition No. 44.1 which reads as follows:

44.1 Within 30 days of this modified consent DA17/0564.01 being issued the applicant is to:

- a) Make application to Council for a Building Information Certificate. This application is to be accompanied by a certificate from a structural engineer that details the structural adequacy of the roof structure or clearly details any remedial works that are required to be carried out. This application is also to be supported with a landscaping plan that shows retention of all mature existing native vegetation between the house and the riverbank (not affected by tree removal associated with PTV18/0039) and additional vegetation planting between the house and the river bank to acts as a partial vegative screen for the house to soften the visual impact of the house when viewed from the river or across the river.
- b) Provide Council with draft wording for a proposed 88B Instrument that would burden the subject lot in perpetuity to:
 - Retain existing mature native vegetation between the house and the riverbank (not affected by PTV18/0039) to ensure that such existing vegetation acts as a partial vegative screen for the house to soften the visual impact of the house when viewed from the river or across the river.
 - Burden the existing lot to comply with a future landscaping plan that shows additional landscaping between the house and the riverbank to acts as a partial vegative screen for the house to soften the visual impact of the house when viewed from the river or across the river.

4. Add new Condition 6.1 which reads as follows:

6.1 Within 6 months of the date of issue of the modified consent DA17/0564.01 the applicant is to create a restriction as to user burdening the subject site to comply with the approved landscaping plan (at the land owners expense) as required by Condition 44.1 in accordance with Section 88B of the Conveyancing. This landscaping burden shall apply in perpetuity.

The Motion was **Carried**

FOR VOTE - Unanimous

5 [PR-PC] Rural Land Strategy - Response to Public Exhibition and Final Draft for Adoption

This item was dealt with earlier in the meeting (Minute No P60 refers).

6 [PR-PC] Strategic Planning and Urban Design Workplan

P 66

**Cr J Owen
Cr P Allsop**

RECOMMENDED that:

1. The Strategic Planning and Urban Design Unit Workplan 2019-2020 and the 10 top priority projects as outlined in this report be endorsed; and
2. A six month workplan review be reported to Council, around March/April 2020 outlining progress and re-allocation of priority projects.
3. Council includes in the Strategic Planning and Urban Design Unit Workplan a future process to amend the Development Control Plan Section A5 to remove exemption clause for infill developments.

Cr P Allsop temporarily left the meeting at 06:59 PM.

Cr P Allsop has returned from temporary absence at 07:00 PM

ADJOURNMENT OF MEETING

Adjournment for dinner at 7.06 pm.

RESUMPTION OF MEETING

The Meeting resumed at 7.45 pm

The Motion was **Carried**

FOR VOTE - Unanimous

7 [PR-PC] Fire and Rescue NSW - Fire Safety Inspection Reports

P 67

**Cr P Allsop
Cr C Cherry**

RECOMMENDED that:

1. Council receives the 10 fire safety audit reports from Fire and Rescue NSW and notes that all the matters raised in the reports and subsequent Council inspections have now been addressed; and
2. Council advises Fire and Rescue NSW of action taken in this matter and that no fire safety orders are to be issued.

The Motion was **Carried**

FOR VOTE - Unanimous

Cr R Cooper temporarily left the meeting at 07:46 PM.

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

P 68

**Cr P Allsop
Cr C Cherry**

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

The Motion was **Carried**

**FOR VOTE - Unanimous
ABSENT. DID NOT VOTE - Cr R Cooper**

Cr R Cooper has returned from temporary absence at 07:47 PM

ADDENDUM ITEMS

- 9 ADDENDUM [PR-PC] Development Application DA18/0486 for a Concept Development Application for 10 Group Homes (Permanent) and Development of Stage 1 for Two Group Homes (Permanent) containing 14 Units at Lot 6 DP 524303 No. 26 George Street, Murwillumbah**

This item was dealt with earlier in the meeting (Minute No P62 refers).

There being no further business the Planning Committee Meeting terminated at 7.47pm.

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