



TWEED
SHIRE COUNCIL

Mayor: Cr G Bagnall

Councillors: P Youngblutt (Deputy Mayor)
M Armstrong
C Byrne
B Longland
K Milne
W Polglase

Minutes

Planning Committee Meeting Thursday 4 December 2014

held at Murwillumbah Cultural and Civic Centre
commencing at 5.00pm

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 79C
79C Evaluation

(1) Matters for consideration-general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
- (iii) any development control plan, and
- (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),

that apply to the land to which the development application relates,

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

Note: See section 75P (2) (a) for circumstances in which determination of development application to be generally consistent with approved concept plan for a project under Part 3A.

The consent authority is not required to take into consideration the likely impact of the development on biodiversity values if:

- (a) the development is to be carried out on biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995), or
- (b) a biobanking statement has been issued in respect of the development under Part 7A of the Threatened Species Conservation Act 1995 .

(2) Compliance with non-discretionary development standards-development other than complying development If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:

- (a) is not entitled to take those standards into further consideration in determining the development application, and
- (b) must not refuse the application on the ground that the development does not comply with those standards, and
- (c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,

and the discretion of the consent authority under this section and section 80 is limited accordingly.

- (3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:
 - (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 80 is not limited as referred to in that subsection, and
 - (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

Note: The application of non-discretionary development standards to complying development is dealt with in section 85A (3) and (4).

- (4) Consent where an accreditation is in force A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.
- (5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).
- (6) Definitions In this section:
 - (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and
 - (b) "non-discretionary development standards" means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

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The Meeting commenced at 5.00pm.

IN ATTENDANCE

Cr G Bagnall (Mayor), Cr P Youngblutt (Deputy Mayor), Cr M Armstrong, Cr C Byrne, Cr B Longland, Cr K Milne, and Cr W Polglase.

Also present were Mr Troy Green (General Manager), Mr Neil Baldwin (Acting Director Corporate Services), Mr David Oxenham (Director Engineering), Mr Vince Connell (Director Planning and Regulation), Ms Tracey Stinson (Director Community and Natural Resources), Mr Shane Davidson (Executive Officer) and Miss Janet Twohill (Minutes Secretary).

ABORIGINAL STATEMENT

The Mayor acknowledged the Bundjalung Aboriginal Nation with the following statement:

"We wish to recognise the generations of the local Aboriginal people of the Bundjalung Nation who have lived in and derived their physical and spiritual needs from the forests, rivers, lakes and streams of this beautiful valley over many thousands of years as the traditional owners and custodians of these lands."

PRAYER

The meeting opened with a Prayer read by the Mayor.

DISCLOSURE OF INTEREST

Nil.

SCHEDULE OF OUTSTANDING RESOLUTIONS

1 [SOR-PC] Schedule of Outstanding Resolutions - Planning Committee

That the Schedule of Outstanding Resolutions was received and noted.

REPORTS THROUGH THE GENERAL MANAGER

Nil.

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

2 [PR-PC] Unauthorised Earthworks and Pollution Events at Lots 113, 124, 127-129, 136 and 138 DP 755724 Tyalgum Road, Tyalgum

P 185

Cr W Polglase
Cr P Youngblutt

PROPOSED that:

- A. 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.

- B. Council, in respect of the unauthorised earthworks and pollution events affecting parts of the property described as Lots 113, 124, 127-129, 136 and 138 DP 755724 Tyalgum Road, Tyalgum, and adjoining properties, including Hopping Dicks Creek, endorses the following:
1. Receives and notes the progress of the owner's response to Council's most recent Clean-Up Notice; and
 2. Determines whether or not to continue with Class 5 proceedings in the NSW Land and Environment Court against the site owner.

AMENDMENT

P 186

Cr K Milne

Cr M Armstrong

RECOMMENDED that Council defers the matter until further advice is received from the Environmental Protection Authority.

The Amendment was **Carried**

FOR VOTE - Cr C Byrne, Cr M Armstrong, Cr K Milne, Cr B Longland, Cr G Bagnall

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase

The Amendment on becoming the Motion was **Carried** - (Minute No **P 186** refers)

FOR VOTE - Cr C Byrne, Cr M Armstrong, Cr K Milne, Cr B Longland, Cr G Bagnall

AGAINST VOTE - Cr P Youngblutt, Cr W Polglase

3 [PR-PC] Alleged Unauthorised Works at Lot 301 DP 1053375 and Lot 2 DP 1190805 No. 239 Zara Road, Chillingham

P 187

Cr C Byrne

Cr P Youngblutt

RECOMMENDED that:

1. Council receives and notes this report on the alleged unauthorised works on the site and the rectification actions being taken by the site owner at Lot 301 DP 1053375 and Lot 2 DP1190805 No. 239 Zara Road, Chillingham; and
2. A further updated report on the progress of these actions be submitted to 5 February 2015 Planning Committee Meeting.

The Motion was **Carried**

FOR VOTE - Unanimous

4 [PR-PC] Illegal Earthworks - 137 Adcocks Road, Stokers Siding

P 188

Cr C Byrne

Cr P Youngblutt

RECOMMENDED that:

1. ATTACHMENTS 1-5 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because they contain:-
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
2. Council, in respect of the unlawful earthworks and land use at Lot 3 DP584908 No. 137 Adcocks Road, Stokers Siding endorses the following:
 1. Engages its solicitors to enforce compliance by reinstating the site to its natural form and restoring the lawful use.

The Motion was **Carried**

FOR VOTE - Unanimous

a4 [PR-PC] Supplementary Report in Relation to Item 4 Illegal Earthworks - 137 Adcocks Road, Stokers Siding

P 189

Cr W Polglase

Cr M Armstrong

RECOMMENDED that the report titled Supplementary Report in Relation to Item 4 Illegal Earthworks - 137 Adcocks Road, Stokers Siding be received and noted.

The Motion was **Carried**

FOR VOTE - Unanimous

5 [PR-PC] Development Application DA13/0446 for Four Tourist Cabins at Lot 2 DP 628210 Tyalgum Road, Eungella

P 190

Cr W Polglase

Cr P Youngblutt

RECOMMENDED that:

- A. Development Application DA13/0446 for four tourist cabins at Lot 2 DP 628210 Tyalgum Road, Eungella 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 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 95 of the Regulations as amended.

- A. A Habitat Restoration Plan (HRP) shall be prepared for the 'Rehabilitation Area' shown on Habitat Restoration Areas Plan- DA13/0446 Lot 2 DP535854 & Lot 2 DP628210 and lodged with Council for approval. The HRP shall be prepared generally in accordance with the Tweed Shire Council's Draft Habitat Restoration Plan Guideline by a person qualified in Bushland Regeneration or Ecological Restoration and with knowledge and experience in local vegetation communities. The HRP shall include:
- a) an appraisal of the present condition of the restoration area;
 - b) a plan overlaying an aerial photograph of the site which divides the area into zones for assisted natural regeneration and zones for revegetation, including connections between existing vegetation where appropriate;
 - c) a management strategy for each of the zones, including the approach, methods and techniques to be used for successful habitat restoration;
 - d) any soil improvement requirements and re-profiling;
 - e) a schedule of local native plant species to be used for planting;
 - f) a program of works to be undertaken to remove invasive weed species;
 - g) details of fauna friendly fencing, management measures to restrict domestic and/or livestock from the rehabilitation area;
 - h) a schedule of timing of proposed works specifically stating that rehabilitation will commence prior to issue of a Construction Certificate;

- i) a schedule of performance indicators necessary to achieve site capture;
- j) a maintenance, monitoring and reporting schedule with developer commitment for a period not less than five years; and
- k) an adaptive management statement detailing how potential problems arising may be overcome and requirement for approval of the General Manager or delegate for such changes.

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 Nos
 - No. 20260 Sheet 1 of 1 Location Plan dated 22 July 2014 prepared by B&P Surveys;
 - Plan No. 2 of 3 dated 12/11/2014
 - Plan No. 3 of 3 dated 12/11/2014

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. All trees identified on the Dwg. No. 20260 Sheet 1 of 1 Location Plan dated 22 July 2014 prepared by B&P Surveys shall be retained and protected for the life of development.

[GENNS02]

4. The area described as 'Rehabilitation Area' shall be afforded long term protection and managed as a natural area. The following activities shall not be permitted in the 'Rehabilitation Area' for the life of the development:

- a) Clearing, lopping or removal of any native plants, whether existing at the date of this approval, naturally recruited or planted pursuant to conditions of this consent.
- b) Erection of any fixtures or improvements, including buildings or structures;
- c) Construction of any trails or paths;
- d) Depositing of any fill, soil, rock, rubbish, ashes, garbage, waste or other material foreign to the rehabilitation area;
- e) Keeping or permitting the entry of domestic animals, livestock or any other animals that are not indigenous to the rehabilitation area.

- f) Performance of any other acts which may have detrimental impact on the values of the rehabilitation area

[GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. Restoration works in accordance with the approved Habitat Restoration Plan (HRP) shall be commenced prior to issue of a Construction Certificate. The restoration works shall be undertaken within the following areas of the site as shown on the marked up plan titled Habitat Restoration Areas Plan- DA13/0446 Lot 2 DP535854 & Lot 2 DP628210 dated 23 October 2014 prepared by TSC (See Attachment 1):

- a) Rehabilitation Area 'A' - Approximately 3000m² (Within Lot 2 DP628210)
b) Rehabilitation Area 'B' - Approximately 3000m² (Within Lot 2 DP535854)

These areas are to be collectively known as the 'Rehabilitation Area' for the purposes of this consent.

[PCCNS01]

6. Section 94 Contributions

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

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 94 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

These charges include indexation provided for in the S94 Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

- | | |
|--|----------|
| (a) Tweed Road Contribution Plan:
7.2 Trips @ \$2344 per Trips
(\$2,239 base rate + \$105 indexation)
S94 Plan No. 4
Sector12b_4 | \$16,877 |
| (b) Shirewide Library Facilities:
5.2 ET @ \$847 per ET
(\$792 base rate + \$55 indexation) | \$4,404 |

S94 Plan No. 11

- | | |
|--|------------|
| (c) Eviron Cemetery:
5.2 ET @ \$124 per ET
(\$101 base rate + \$23 indexation)
S94 Plan No. 13 | \$645 |
| (d) Community Facilities (Tweed Coast - North)
5.2 ET @ \$1404 per ET
(\$1,305.60 base rate + \$98.40 indexation)
S94 Plan No. 15 | \$7,301 |
| (e) Extensions to Council Administration Offices
& Technical Support Facilities
5.2 ET @ \$1880.38 per ET
(\$1,759.90 base rate + \$120.48 indexation)
S94 Plan No. 18 | \$9,777.98 |
| (f) Cycleways:
5.2 ET @ \$478 per ET
(\$447 base rate + \$31 indexation)
S94 Plan No. 22 | \$2,486 |

[POC0395/PSC0175]

7. Prior to the issue of a construction certificate the applicant is required to lodge an application to install/operate an onsite sewerage management system under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with an approval.

Any approval to install an on-site sewage treatment and disposal system shall comply with the recommended on-site sewage treatment and disposal method as detailed in the Revised On-site Sewage Management Assessment Report (reference HMC 2014.029) prepared by HMC Pty Ltd and dated April 2014 including all recommendations of that report and any addendum to the report or to the satisfaction of Councils General Manager or his delegate.

[PCC1285]

PRIOR TO COMMENCEMENT OF WORK

8. An application to carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

DURING CONSTRUCTION

9. Construction and/or demolition site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council:

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

10. 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]

11. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

- (a) external drainage prior to backfilling.
- (b) completion of work and prior to occupation of the building.

[DUR2485]

12. 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]

13. 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]

14. 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]

15. An On-site Sewage Management System shall be installed in accordance with an Approval to Install an On-site Sewage Management System under Section 68 of the Local Government Act 1993.

[DUR2775]

16. The tourist's cabins are to be provided with smoke alarms in accordance with Part 3.7.2 of the Building Code of Australia.

[DURNS01]

17. Each tourist cabin is to be provided with Laundry Facilities in accordance with Part 3.8.3 of the Building Code of Australia.

[DURNS02]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

18. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

19. Prior to occupation of the tourist Cabins a certificate is to be provided from a structural engineer confirming the cabins are structural adequate and suitable for occupation.

[POC0805]

20. Prior to occupation or commencement of use a drinking water quality management plan or drinking water quality assurance program prepared in accordance with the Private Water Supply Guidelines, NSW Health 2008 and the Public Health Regulation 2012 shall be prepared and maintained on site. All activities shall comply with the adopted assurance program and the program shall be made available to Council's Authorised Officer upon request.

[POC0950]

21. Prior to occupation the applicant or business operator is to be registered in Council's Private Water Supply Register and pay the appropriate fee under Council's schedule of fees and charges.

[POC0955]

22. Prior to the occupation of any building and prior to the issue of any occupation certificate a final inspection report is to be obtained from Council to verify the satisfactory installation of all plumbing and drainage and the on-site sewage management facility.

[POC1035]

23. Prior to the occupation of any building and prior to the issue of any occupation certificate approval to operate the on-site sewage management facility under Section 68 of the Local Government Act 1993 shall be obtained from Council.

[POC1040]

24. Primary revegetation/restoration works within the 'Rehabilitation Area' must be completed in accordance with the approved Habitat Restoration Plan (HRP) to the satisfaction of Council's General Manager or delegate prior to the issue of an occupation certificate. The maintenance of the 'Rehabilitation Area' thereafter shall be undertaken in accordance with approved HRP.

[POCNS01]

25. Prior to occupation of the tourist cabins a Building Certificate is to be obtained from Council for the retention of the building works carried out to the cabins without council approval or inspection (works included the footings and steel

stumps to place the cabins on site). A certificate from structural Engineers confirming the structural adequacy of the cabins is to accompany the application.

[POCNS02]

USE

26. The occupancy of the development is restricted to short-term tourist accommodation only. For the purposes of this development, short-term accommodation means temporary accommodation for holiday or tourist purposes which for any one person is restricted to a period of accommodation not exceeding 42 consecutive days with an interval of at least 14 days between occupancies and not exceeding a total of 90 days in any 12 month period.
[USE0015]
27. A register is to be kept by the owner or proprietors to record sufficient details of the occupancies to confirm compliance with short-term tourist accommodation restrictions of this consent. The register shall be made available at any time for inspection by an authorised officer of Council.
[USE0035]
28. 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]
29. 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]
30. Subdivision of the development, including strata subdivision, is not permitted.
[USE1255]
31. A roof catchment water supply source shall be provided for domestic purposes where a Council reticulated supply is unavailable. Any domestic water supply roof collection system should be fitted with a first flush device. Minimum storage tank capacity shall be 20,000 litres for the first bedroom, then an additional 15,000 litres per bedroom thereafter and shall be in addition to any water volume requirements stipulated by the NSW Rural Fire Services. Installation, water collection, and maintenance of rainwater tanks used for drinking purposes must comply with NSW Health requirements.
[USE1470]
32. In the event that untreated or untested water is supplied for tourist type accommodation a warning sign shall be displayed at all fixtures. Such signs shall state the source of raw water and method of treatment, if any.
[USE1475]
33. Each tourist cabin is to have a maximum occupancy of two people. The bunk beds are to be removed as per the requirements of the Revised On-site Sewage Management Assessment Report (reference HMC 2014.029).
[USENS01]

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

1. The proposed development: rural tourist facility, including four tourist cabins, has been assessed against information referred to the NSW RFS by Tweed Shire Council dated 19/9/12.

The referred plans that this BFSA has been assessed against are identified as follows:

- The undated and untitled “part site plan” attached to the suite of information referred to the RFS from Tweed Shire Council and dated 23/5/14,
- Figures 1 and 2 of the Amended Bushfire Threat Assessment Report prepared by “Bushfire Certifiers” and dated 7/2/14,
- Amended Bushfire Threat Assessment Report prepared by “Bushfire Certifiers” and dated 7/2/14.

The above referenced material is amended by the following listed conditions.

2. At the commencement of building works, and then in perpetuity, the property around the four proposed Cabins shall be managed as follows, and as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones':

- East for a distance of 30 metres as an inner protection area,
- North, South and West for a distance of 25 metres as an inner protection area,
- North-west for a distance of 40 metres as an inner protection area,
- South-west for a distance of 40 metres as an inner protection area.

(Note: in forested areas a portion of the APZ may be maintained as an outer protection area as specified in Table A2.7 of 'Planning for Bush Fire Protection 2006'.)

3. In recognition that no reticulated water supply is available to the development, a total of 10,000 litres fire fighting water supply shall be provided to each cabin for fire fighting purposes. The fire fighting water supply shall be installed and maintained in the following manner:

- a) Fire fighting water supply tank(s) shall be located not less than 5 metres and not more than 20 metres from the approved structure.
- b) A hardened ground surface for fire fighting truck access is to be constructed up to and within 4 metres of the fire fighting water supply.
- c) New above ground fire fighting water supply storage's are to be manufactured using non combustible material (concrete, metal, etc). Where existing fire fighting water supply storage's are constructed of combustible

(polycarbonate, plastic, fibreglass, etc) materials, they shall be shielded from the impact of radiant heat and direct flame contact.

- d) Non combustible materials (concrete, metal, etc) will only be used to elevate or raise fire fighting water supply tank(s) above the natural ground level.
- e) A 65mm metal Storz outlet with a gate or ball valve shall be fitted to any fire fighting water supply tank(s) and accessible for a fire fighting truck. The Storz outlet fitting shall not be located facing the hazard or the approved structure.
- f) The gate or ball valve, pipes and tank penetration are adequate for full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material.
- g) All associated fittings to the fire fighting water supply tank(s) shall be non-combustible.
- h) Any below ground fire fighting water supply tank(s) constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials shall be shielded from the impact of radiant heat and direct flame contact.
- i) Any fire fighting water supply tank(s) located below ground shall be clearly delineated to prevent vehicles being driven over the tank.
- j) All water supplies for fire fighting purposes shall be clearly signposted as a fire fighting water supply.
- k) Below ground fire fighting water supply tank(s) shall have an access hole measuring a minimum 200mm x 200mm to allow fire fighting trucks to access water direct from the tank.
- l) Fire fighting water supply tank(s) and associated fittings, located within 60 metres of a bushfire hazard and on the hazard side of an approved building, shall be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for fire fighters.
- m) A Static Water Supply (SWS) sign shall be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:
 - i. Markers must be fixed in a suitable location so as to be highly visible; and
 - ii. Markers should be positioned adjacent to the most appropriate access for the water supply.

Note: Below ground dedicated fire fighting water supply tank(s) is defined as that no part of the tanks(s) is to be located above natural ground level.

- 4. New electricity and gas are to comply with sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire Protection 2006'.

5. Internal roads shall comply with section 4.1.3 Access (2) Property Access Road of 'Planning for Bush Fire Protection 2006', with the following exception:
 - In lieu of either a looped road around a dwelling or a turning circle with a minimum radius of 12m, a reversing bay may be used that is 6m in width and 8m deep.
6. The existing access road, located on Lot 2 DP 535854, which provides an alternative connection from the proposed development (located on Lot 2 DP 628210) to the public road system (Hidden Valley Road) that is relied upon by the proposed development, shall be covered by an easement to ensure its ongoing legal status allowing it to be used in perpetuity.

In accordance with section 88B of the 'Conveyancing Act 1919' a restriction to the land use shall be placed upon lot 2 DP 535854, benefiting Lot 2 DP 628210, requiring the provision of this easement prior to an Occupation Certificate being issued by the Certifying Authority for the cabins to be used.

7. Arrangements for emergency and evacuation are to comply with the following requirements of section 4.2.7 of 'Planning for Bush Fire Protection 2006':
 - An Emergency/Evacuation Plan is to be prepared in accordance with the NSW Rural Fire Service Guidelines for the Preparation of Emergency/Evacuation Plan and comply with Australian Standard AS 37452010 'Planning for Emergencies in Facilities'.
 - Detailed plans of all Emergency Assembly Areas including "on site" and "off site" arrangements as stated in Australian Standard AS 37452010 'Planning for Emergencies in Facilities' are clearly displayed in each cabin, and an annual (as a minimum) trial emergency evacuation is conducted.
 - The emergency evacuation plan is to be submitted to the consent authority for approval prior to the occupation certificate being issued. A copy of the approved plan shall also be provided to the Local Bush Fire Management Committee prior to occupation of the site.
 8. New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
- B. If the Development Application is commenced in accordance with the consent (Schedule B) a Penalty Infringement Notice for unauthorised works be issued.
- C. Should Development Application DA13/0446 for four tourist cabins at Lot 2 DP 628210 Tyalgum Road, Eungella not proceed Council is to seek legal advice in regards to commencing legal action for the unauthorised works.

The Motion was **Carried**

FOR VOTE - Unanimous

**6 [PR-PC] Use of Existing Building - The Lake, Cabarita - Lot 618 DP 508200
No. 2-8 Willow Avenue, Bogangar**

P 191

**Cr W Polglase
Cr P Youngblutt**

RECOMMENDED that:

1. ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because they contain:-
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
2. Council acknowledges that The Lake, Cabarita is being operated lawfully as a restaurant with occasional, ancillary functions and no further action is considered necessary with regard to the two recent complaints.

The Motion was **Carried**

***FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr M Armstrong, Cr K Milne, Cr B Longland, Cr G Bagnall
AGAINST VOTE - Cr C Byrne***

**7 [PR-PC] Development Application DA14/0171 for a Change of Use of Part of
the Existing Building to a General Store at Lot 1 DP 1074784 No. 136-150
Dry Dock Road, Tweed Heads South**

P 192

**Cr W Polglase
Cr P Youngblutt**

RECOMMENDED that Council supports in principle and conditions be brought back to 22 January 2015 Council Meeting to enable further consideration of the application.

The Motion was **Carried**

FOR VOTE - Unanimous

- 8 [PR-PC] Development Application D91/0281.03 for an Amendment to Development Consent D91/0281 for Dredging of the Tweed River North of Dodds Island to Barneys Point Bridge and Establishment of a Land Base Facility at Part Lot 9 DP 830659 Naru Street, Chinderah; Lot 6 DP 565926 No. 204-206 Chinderah Bay Drive, Chinderah; Lot 5 DP 565926 No. 208-218 Chinderah Bay Drive, Chinderah; Part Lot 9 DP 830659 No. 4-12 Naru Street, Chinderah; Tweed River**

P 193

**Cr K Milne
Cr G Bagnall**

PROPOSED that this Item be deferred for a workshop.

AMENDMENT

P 194

**Cr C Byrne
Cr P Youngblutt**

RECOMMENDED that Development Application D91/0281.03 for an amendment to Development Consent D91/0281 for dredging of the Tweed River north of Dodds Island to Barneys Point Bridge and establishment of a land base facility at Part Lot 9 DP 830659 Naru Street, Chinderah; Lot 6 DP 565926 No. 204-206 Chinderah Bay Drive, Chinderah; Lot 5 DP 565926 No. 208-218 Chinderah Bay Drive, Chinderah; Part Lot 9 DP 830659 No. 4-12 Naru Street, Chinderah; Tweed River Chinderah be approved subject to the following amendments:

1. Delete Condition 1 that stated:

1. The development shall be carried generally out in accordance with the EIS prepared by Landplan Aust Pty Ltd, dated September 1991 except where varied by the following conditions.

and replace with new Condition 1A that states:

- 1A. The development shall be carried out in general accordance with the Action Sands Environmental Management Plan dated July 2014.

2. Delete Condition 3 that stated:

3. The development shall be completed within 20 years of commencement.

and replace with new Condition 3A that states:

- 3A. The development shall be completed by 24 March 2024.

3. Delete Condition 5 that stated:

5. Following completion of the operations, the land-based processing site shall be rehabilitated, including replacement of topsoil to the satisfaction of Council's Director Development Services.

and replace with new Condition 5A that states:

- 5A. Following the completion of the operations, the land based processing site shall be rehabilitated, including replacement of topsoil to the satisfaction of Tweed Shire Council's General Manager or delegate.

4. Delete Condition 6 that stated:

6. The applicant shall obtain any necessary approvals from the Department of Agriculture and Fisheries under the Fisheries and Oyster Farms Act.

and replace with new Condition 6A that states:

- 6A The applicant shall obtain and maintain any necessary approvals from the NSW EPA, NSW Office of Water, NSW Department of Primary Industries and NSW Crown Lands.

5. Delete Condition 9 that stated:

9. Prior to commencement of any work, a proper metes and bounds survey is required to be submitted to and approved by the Director Development Services. The survey must comply with the following:

- a. The origin of co-ordinates of the survey must be related to a cadastral or other official survey.
- b. Soundings of the existing river bed are to be shown over the entire area to be dredged. The soundings must be of sufficient number to enable 0.5 metre contours to be confidently drawn. Soundings must be based on a datum of levels of Local Indian Spring Low Water or other datum acceptable to the Director Development Services. Levels must also be related to an official bench mark in the area.
- c. All proposed depths of dredging and side batters are to be clearly shown on the survey plan.
- d. The proposed method and area in which any dredge waste is proposed to be discarded is to be clearly indicated on the survey plan.

and replace with new Condition 9A that states:

- 9A. Prior to commencement of any work, a proper metes and bounds survey is required to be submitted to and approved by Tweed Shire Council's General Manager or delegate. The survey must comply with the following:

- a. The origin of co-ordinates of the survey must be related to a cadastral or other official survey.

- b. Soundings of the existing river bed are to be shown over the entire area to be dredged. The soundings must be of sufficient number to enable 0.5 metre contours to be confidently drawn. Soundings must be based on a datum of levels of Local Indian Spring Low Water or other datum acceptable to the Director Development Services. Levels must also be related to an official bench mark in the area.
- c. All proposed depths of dredging and side batters are to be clearly shown on the survey plan.
- d. The proposed method and area in which any dredge waste is proposed to be discarded is to be clearly indicated on the survey plan.

6. Delete Condition 10 which stated:

- 10. The tenant shall supply to the Director Development Services a plan of soundings to the same standard as indicated in Condition 10(b) taken within the area of the application on an annual basis and at the completion of dredging operations.

and replace with new Condition 10A that states:

- 10A. The tenant shall supply to Tweed Shire Council's General Manager or delegate a plan of soundings to the same standard as indicated in Condition 9(b) taken within the area of the application on an annual basis and at the completion of dredging operations.

7. Delete Condition 11 that stated:

- 11. Retention ponds to be raised or bunded above 1 in 20 year flood event to satisfaction of Director Engineering Services. Above ground storage of material to be reduced to maximum of 5000m² at any one time.

and replace with new Condition 11A that states:

- 11A. Retention ponds are to be raised or bunded above 1 in 20 year flood event to the satisfaction of Tweed Shire Council's General Manager or delegate. Above ground storage of material to be reduced to a maximum of 5000m² at any one time.

8. Delete Condition 12 that stated:

- 12. Applicant to lodge a bond equal to the current estimated value of full rock protection of that section of bank identified in EIS as susceptible to erosion plus 20%. Applicant to set up survey control cross sections to the satisfaction of Director Engineering Services. Cross sections to be monitored and reports provided three monthly and inspected with Council officers at no greater than six monthly intervals. All work deemed necessary by the Director Engineering Services to be carried out with funds drawn from the bond. Bond to be held and monitoring to continue for 12 months after completion of dredging after which any monies not expended be refunded to the applicant.

and replace with new Condition 12A that states:

12A. Applicant to lodge a bond equal to the current estimated value of full rock protection of that section of bank identified in EIS as susceptible to erosion plus 20%. Applicant to set up survey control cross sections to the satisfaction of Tweed Shire Council's General Manager or delegate. Cross sections to be monitored and reports provided three monthly and inspected with Council officers at no greater than six monthly intervals. All work deemed necessary by Tweed Shire Council's General Manager or delegate to be carried out with funds drawn from the bond. Bond to be held and monitoring to continue for 12 months after completion of dredging after which any monies not expended be refunded to the applicant.

9. Delete Condition 32 that stated:

32. A system of dampeners is to be installed to allow irrigation of the sand stockpile to prevent the loss of airborne particulate matter from the site. A watering system is also to be installed to enable irrigation of the haulage and access roads within the site. Plan to be submitted to and approved by the Director Environment and Community Services and system to operational prior to completion of the stockpiling referred to Condition 31 above.

and replace with new Condition 32A that states:

32A. A system of dampeners is to be installed to allow irrigation of the sand stockpile to prevent the loss of airborne particulate matter from the site. A watering system is also to be installed to enable irrigation of the haulage and access roads within the site. Plan to be submitted to and approved by Tweed Shire Council's General Manager or delegate and system to operational prior to completion of the stockpiling referred to Condition 31 above.

10. Delete Condition 34 that stated:

34. The submission of a management plan addressing the issue of potential and actual acid sulphate soils in respect to:

- i. The stockpiled material referred to in Condition 31;
- ii. The silt material placed in the pond and subsequent future dredging from the pond.

for the approval of the Director Environment and Community Services, prior to commencement of dredging operations pursuant to Condition No. 31.

and replace with new Condition 34A that states:

34A. The submission of a management plan addressing the issue of potential and actual acid sulphate soils in respect to:

- i. The stockpiled material referred to in Condition 31;
- ii. The silt material placed in the pond and subsequent future dredging from the pond.

for the approval of Tweed Shire Council's General Manager or delegate, prior to commencement of dredging operations pursuant to Condition 31.

11. Insert new Condition 36 that reads as follows:

36. All future works following approval of D91/0281.03 shall achieve a 1:6 batter in accordance with approved plans.

12. Insert new Condition 37 that reads as follows:

37. All future works following approval of D91/0281.03 shall maintain a 50-100 metre buffer to TYPE 1 Highly Sensitive Key Fish Habitat (such as seagrass beds >5m² and SEPP 14 wetlands) and a 50m buffer to TYPE 2 Moderately Sensitive Key Fish Habitats (such as seagrass beds <5m² and mangroves) as referenced in *Fisheries NSW* current policy and guidelines.

13. Insert new Condition 38 that reads as follows:

38. Any dredging works to be undertaken downstream of Box M requires the submission of detailed Seagrass Impact Assessment. The Impact Assessment is to be lodged and approved to the satisfaction of both Tweed Shire Council and NSW Fisheries.

The Amendment was **Carried**

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr B Longland

AGAINST VOTE - Cr K Milne, Cr G Bagnall

The Amendment on becoming the Motion was **Carried** - (Minute No **P194** refers)

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr B Longland

AGAINST VOTE - Cr K Milne, Cr G Bagnall

9 [PR-PC] Development Application D96/0248.01 for an Amendment to Development Consent D96/0248 for Proposed Sand Stockpiles at Lot 6 DP 565926 No. 204-206 Chinderah Bay Drive and Lot 5 DP 565926 No. 208-219 Chinderah Bay Drive, Chinderah

P 195

Cr W Polglase

Cr P Youngblutt

RECOMMENDED that Development Application D96/0248.01 for an amendment to Development Consent D96/0248 for proposed sand stockpiles at Lot 6 DP 565926 No. 204-206 Chinderah Bay Drive and Lot 5 DP 565926 No. 208-218 Chinderah Bay Drive, Chinderah be approved subject to the following amendments:

1. Condition No. 1 is to be deleted which previously stated:

1. The development shall be completed generally in accordance with the Environmental Impact Statement prepared by Martin Findlater & Associates dated 11 June 1996 and Drawing No 95024-01 REV A prepared by Martin Findlater & Associates dated 10 June 1996, accept where varied by these conditions.

and insert new Condition No. 1A which reads as follows:

- 1A The development shall be completed generally in accordance with the Environmental Impact Statement prepared by Martin Findlater & Associates dated 11 June 1996 and *Drawing No 7922-19 (c) Sheet 1 of 2 and 2 of 2 dated 15 November 2013, prepared by Michel Group Services*, accept where varied by these conditions.

2. Delete the last sentence of Condition 2, Condition 2 in its entirety currently states:

2. The storage and supply of any material that is not solely a result of the dredging operations associated with development consent 91/281 or as a result of site preparation works as a result of this consent is prohibited. The storage of landscape materials that are the result of mixing with materials that need to be imported to the site is prohibited. This does not involve material that is required to treat the material stockpiled on site to comply with condition 10(iv).

Insert new Condition 2A to read as follows:

- 2A. The storage and supply of any material that is not solely a result of the dredging operations associated with development consent 91/281 or as a result of site preparation works as a result of this consent is prohibited. The storage of landscape materials that are the result of mixing with materials that need to be imported to the site is prohibited.

3. Condition No. 3 is to be deleted which stated:

3. The development shall be completed within 20 years of the commencement of works associated with development consent 91/281.

and insert new Condition No. 3A which reads as follows:

- 3A The development shall be completed by 24 March 2024.

4. Amend Condition 4 which stated:

4. Following completion of the operations, the site is to be rehabilitated including the replacement of topsoil to the satisfaction of the Director, Development Services.

Insert new Condition 4A to read as follows:

4A. Following completion of the operations, the site is to be rehabilitated including the replacement of topsoil to the satisfaction of Tweed Shire Council.

5. Amend Condition 9 which stated:

9. Landscaping is to be carried out in accordance with the submitted landscaping plans maintained to the satisfaction of the Director, Development Services.

Insert new Condition 9A to read as follows:

9A. Landscaping is to be carried out in accordance with the submitted landscaping plans maintained to the satisfaction of Tweed Shire Council.

6. Condition No. 10 is to be partially deleted (points iii, iv, v, and vi) which stated:

10. Compliance with all requirements of Council's Environment and Community Services Division, specifically including the following matters:

(iii) Prior to any material leaving the site the material is to be sampled and tested for Net Acid Generating Potential (NGAP) and electrical connectivity in relation to pH at a rate of one (1) sample per 1000m³. This does not include the material sold as "brickies loam" for the sole purpose of mixing with cement to create mortar.

(iv) Material is not to leave this site unless sampled in accordance with Condition 10(iii) and demonstrated to be within the following limits.

* NGAP < 0kg H₂ SO₄/m³

* Electrical Conductivity < 3.0mS/cm in 1:5 soil to water suspension.

* pH > 5.5 in 1:5 soil to water suspension.

(v) Further testing of the existing "brickies" loam stockpiled on site is to be carried out if it is used for a purpose other than to mix with cement to create mortar.

(vi) All records of sampling are to be retained for inspection and investigation by Council's Environment and Health Services Unit upon request.

and insert new Condition No. 10A which reads as follows:

10A. Compliance with all requirements of Council, specifically including the following matters:

(i) All of the mitigating measures and safeguards contained within the Environmental Impact Statement are to be implemented in full by the operators of the facility.

(ii) All runoff from the proposed operation is to be collected and directed to stockpile irrigation or to the main pond via drains.

(iii) Deleted

- (iv) Deleted
- (v) Deleted
- (vi) Deleted
- (vii) The site is to be engineered and maintained to avoid water standing for extended periods of time.
- (viii) The site is to be engineered and maintained to avoid water standing for extended periods of time. This does not apply to the pond required for irrigation purposes.
- (ix) If routine inspection by Councils entomological unit finds any mosquito breeding on site, control with larvicide will be carried out with all costs being borne by the owner.
- (x) All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
- (xi) 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, fumes or the like.
- (xii) Upon commencement of work on the proposed main stockpile, an irrigation/sprinkler system is to be installed on top of the stockpile and along the unsealed haulage roads within the site, to the satisfaction of the Director, Environment and Community Services.
- (xiii) The irrigation system is to be capable to provide sufficient dampening of the entire stockpile and haulage roads during periods of traffic and/or high speed winds. The use of the bucket to dampen the roads is only to be used as an additional method.
- (xiv) During periods of high speed wind resulting in complaints from residents which Council deem to be reasonable, the stockpiles of other materials are to be covered so as to minimise the movement of dust and other particulates off site.

7. The following new condition 10.1 is to be added to the consent:

10.1 All environmental monitoring is to be carried out in accordance with the Environment Protection Licence relating to the site, issued by the Environment Protection Authority. In the event that the site is no longer licensed and regulated by the Environment Protection Authority, the applicant is to contact Council to determine appropriate environmental monitoring requirements.

The Motion was **Carried**

FOR VOTE - Cr P Youngblutt, Cr W Polglase, Cr C Byrne, Cr M Armstrong, Cr B Longland

AGAINST VOTE - Cr K Milne, Cr G Bagnall

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

P 196

**Cr C Byrne
Cr P Youngblutt**

RECOMMENDED that Council notes the November 2014 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**

FOR VOTE - Unanimous

ORDERS OF THE DAY

Nil.

There being no further business the Planning Committee Meeting terminated at 5.36pm.

