



**TWEED**  
SHIRE COUNCIL

**Mayor:** Cr K Milne

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

# Minutes

## **Planning Committee Meeting Thursday 7 June 2018**

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

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - Section 4.15 Evaluation

### (1) **Matters for consideration—general**

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provisions of:
  - (i) any environmental planning instrument, and
  - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
  - (iii) any development control plan, and
  - (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
  - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
  - (v) any coastal zone management plan (within the meaning of the *Coastal Protection Act 1979*),  
that apply to the land to which the development application relates,
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations, (e) the public interest.

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

### (2) **Compliance with non-discretionary development standards—development other than complying development.**

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

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

and the discretion of the consent authority under this section and section 4.16 is limited accordingly.

### (3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:

- (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and
- (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

**Note.** The application of non-discretionary development standards to complying development is dealt with in section 4.28 (3) and (4).

(3A) **Development control plans**

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

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

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

(4) **Consent where an accreditation is in force**

A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the *Building Code of Australia* if the building product or system is accredited in respect of that requirement in accordance with the regulations.

- (5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).

(6) **Definitions**

In this section:

- (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and
- (b) **non-discretionary development standards** means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

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The Meeting commenced at 5.31pm.

### **IN ATTENDANCE**

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

Also present were Mr Vince Connell (Director Planning and Regulation), Mr Tim Mackney (for Director Engineering), Ms Tracey Stinson (Director Community and Natural Resources), Mr Michael Chorlton (Executive Manager Finance, Revenue and Information Technology), Mrs Suzanne Richmond (Executive Manager People, Communication and Governance), Mr Shane Davidson (Executive Officer), Mr Neil Baldwin (Manager Corporate Governance) and Miss Janet Twohill (Minutes Secretary).

### **ABORIGINAL STATEMENT**

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

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

### **PRAYER**

The meeting opened with a Prayer read by Reverend Lyndon Mullholland from All Saint's Anglican Church, Murwillumbah.

*"Gracious God, we humbly thank you for life and health and safety, for freedom to work, leisure to rest and for all that is beautiful in creation and human life.*

*Help those appointed to represent us in this chamber to govern with compassion and justice.*

*Give all who work for this council the skill to serve our community efficiently and effectively. Help decision makers at every level of council weigh up diverse interests and make decisions that benefit our community and natural environment.*

*And help us as a community; to respect and honour those who undertake civic service on our behalf.*

*Help us to not only hold them to account but also to thank them and encourage them in their service.*

*We ask these things, in Jesus' name, Amen."*

### **APOLOGIES**

Nil.

## **DISCLOSURE OF INTEREST**

Cr C Cherry declared a Non-Significant, Non-Pecuniary Interest in Item 3 [PR-PC] Assessment of Acoustic Barrier Design to Satisfy Condition No. 5 of Court Approved Development Application DA15/1064 for a Redevelopment of Waterslide Playground at Lot 1 DP 1014298 No. 1-3 Tweed Coast Road, Hastings Point. The nature of the interest is that Cr C Cherry's family has an interest in a caravan park. Cr C Cherry will manage the Interest by staying in the chamber and assessing the matter on merit alone.

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

Nil.

## **SCHEDULE OF OUTSTANDING RESOLUTIONS**

Nil.

## **ORDERS OF THE DAY**

Nil.

## **REPORTS THROUGH THE GENERAL MANAGER**

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

- 1 [PR-PC] Development Application DA17/0877 for a Change of Use From Dwelling to Serviced Apartment at Lot 54 DP 1198266 No. 12 Trestles Avenue, Casuarina**

**P 25**

**Cr W Polglase**

**Cr P Allsop**

**RECOMMENDED** that:

- A. Development Application DA17/0877 for a change of use from dwelling to serviced apartment at Lot 54 DP 1198266 No. 12 Trestles Avenue, Casuarina 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 DA-1, DA-2, DA-3, DA-4, DA-5, DA-6, prepared by Denise Fish Planning and dated 14/11/2017, except where varied by the conditions of this consent.**

[GEN0005]

2. The property being a serviced apartment is defined as tourist and visitor accommodation under the Swimming Pools Act 1992 No 49 which requires a valid occupation certificate (The Final Occupation Certificate was issued on 30 March 2016 and like a Compliance Certificate is valid for three years) or a current Certificate of Compliance in respect of a swimming pool thereafter. Accordingly you are to ensure there is a valid Certificate of Compliance in respect of the Swimming Pool after 30 March 2019.

[GENNS01]
3. The Serviced Apartment use, subject to this consent is limited for a 6 month period commencing from the date the consent is granted. At the completion of the 6 month period, the Serviced Apartment use is to cease and revert to permanent residential use.

[GENNS02]
4. All carparking associated with the tourist accommodation use is to be located within the property boundary of the subject site and is not to impact on the use of the laneway or neighbouring properties.

[GENNS02]
5. A register is to be kept by the owner or proprietors to record the occupancies. The register shall be made available at any time for inspection by an authorised officer of Council.

[USE0025]
6. 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]
7. The  $L_{Aeq, 15 \text{ min}}$  noise level emitted from the premises shall not exceed the background noise level ( $L_{A90}$ ) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.

[USE0165]
8. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.

[USE0175]
9. 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]

10. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer.

[USE0245]

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

[USE0965]

12. Occupancy and use of the premise shall comply with the 'Site Management Plan' dated 10 May 2018, to the satisfaction of the General Manager or his delegate.

13. The maximum number of occupants of the property at any one time shall be 8. A sign shall be permanently displayed in the building stating the maximum number of occupants.

14. Live music shall not be placed external to the building. Acoustic music shall not be played external to the building between 9pm and 8am Sunday to Thursday. Acoustic music shall not be played external to the building between 10pm and 7am Friday and Saturday. The premise shall not be utilised for festivals.

15. Use of the outdoor entertaining areas and swimming pool are restricted to 7am to 9pm Sunday to Thursday and 7am to 10pm Friday and Saturday.

16. Structures such as tents, campervans, vehicles or caravans shall not be used for occupancy external to the building.

[USENS01]

17. Open fires shall not be lit or permitted to burn at the premise.

18. An A3 size sign shall be permanently placed at the front of the property to the satisfaction of the General Manager or his delegate so it can be clearly seen from the public domain advising the public of the land owner's or property manager's contact details including telephone number to enable complaints to be readily made at any time of the day. The land owner or property manager shall be contactable 24 hours 7 days a week to be able to respond to complaints from neighbours within 30 minutes to deal with issues such as parties, noise or anti-social behaviour which may affect residential amenity.

[USENS02]

B. A Penalty Infringement Notice be issued to the owner of Lot 54 DP 1198266 No. 12 Trestles Avenue, Casuarina for carrying out unauthorised development.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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**2 [PR-PC] Development Application DA18/0048 for Alterations and Additions to an Educational Establishment at Lot 9 DP 7665 No. 8 King Street, Murwillumbah**

**P 26**

**Cr W Polglase**

**Cr C Cherry**

**RECOMMENDED** that:

- A. Development Application DA18/0048 for alterations and additions to an educational establishment at Lot 9 DP 7665 No. 8 King Street, Murwillumbah be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Kellie Shapland Town Planning (as amended by correspondence dated 4 May 2018) and the following plans, except where varied by the conditions of this consent.

Document	Prepared by	Dated
Drawing A101 (Issue D) - Demolition Site Plan	Christian Zambelli	28 March 2018
Drawing A102 (Issue D) - Proposed Site Plan	Christian Zambelli	28 March 2018
Drawing A203 (Issue D) - Demolition Ground Floor Plan	Christian Zambelli	28 March 2018
Drawing A204 (Issue D) - Proposed Ground Floor Plan/Kitchen Floor Plan	Christian Zambelli	28 March 2018
Drawing A205 (Issue D) - Proposed First Floor Plan	Christian Zambelli	28 March 2018
Drawing A301 (Issue D) - Proposed East Elevation	Christian Zambelli	28 March 2018
Drawing A302 (Issue D) - Sections	Christian Zambelli	28 March 2018
Drawing A601 (Issue D) - Ground Level Internal Elevations	Christian Zambelli	28 March 2018
Drawing A602 (Issue D) - Disabled Toilet Block Plan	Christian Zambelli	28 March 2018
Drawing A603 (Issue D) - Proposed Ground Level Exit Plan	Christian Zambelli	28 March 2018
Drawing A604 (Issue D) - Proposed First Level Exit Plan	Christian Zambelli	28 March 2018

[GEN0005]

2. Advertising structures/signs to be the subject of a separate development application (where statutorily required).

[GEN0065]

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

[GEN0115]

4. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property.

[GEN0135]

5. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0300]

6. The following works are to be undertaken to ensure that the building is provided with a satisfactory level of fire safety & NCC compliance:

- (a) The existing Exit signs are to be certified to ensure compliance with Clause E4.6 of the Building Code of Australia.
- (b) The existing smoke alarms are to be certified in accordance with AS 3786.
- (c) The two external stairways are to be provided with a second handrail fixed at a height between 665mm and 750mm measured above the nosings of stair treads and the floor surface of ramps or the like as per NCC Clause D2.17.
- (d) The rear external stair is to be modified to satisfy the requirements of Part D of the NCC and AS 1428.1 - 2009. In particular the open risers are to be filled and made opaque.
- (e) The recommendations of *Access All ways Consultants Report* dated 16 December 2017 in respect of the subject building are to be carried out.
- (f) A fire hose reel is to be installed within the existing FHR cabinet in accordance with AS 2441 as per NCC Clause E1.4, *Australian Standard 2441*.
- (g) Portable fire extinguishers containing an extinguishing agent suitable for the risk shall be provided throughout the building to the requirements of AS 2444 - 2001.

[GENNS01]

7. Five on-site parking spaces are to be provided, generally in accordance with the Site plan A-102 dated 28 March 2018, with a minimum of three spaces signposted for parents/carers/visitors to the school.

[GENNS02]

8. All vegetation management works necessary to facilitate the development as specified in the Statement of Effects shall be undertaken by a suitably qualified Arborist (minimum AQF Level 3) in accordance with *Australian Standard 4373-2007 Pruning of amenity trees*. Appropriate arboricultural management measures generally consistent with *Australian Standard AS4970-2009 Protection of trees on development sites* shall be installed and maintained during the construction phase of the development to protect all retained trees on site and those occurring on the adjacent land.

[GENNS04]

9. The educational establishment is limited to a total of 12 students and three staff.

[GENNS05]

#### PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Certificate of Compliance" signed by an authorised officer of Council.

#### BELOW IS ADVICE ONLY

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

Water: Nil

Sewer: Nil

[PCC0265]

11. A detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total new plant numbers comprised of local native species is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.

[PCC0585]

12. 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]

#### PRIOR TO COMMENCEMENT OF WORK

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13. 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]

14. 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]

15. 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]

16. 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]

17. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0665]

18. 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 modification of access onto Prince Lane and the removal of the existing driveway crossover onto King Street and the reinstatement of the kerb.

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

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

[DUR0005]

20. 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:

- (a) Monday to Saturday from 7.00am to 6.00pm
- (b) No work to be carried out on Sundays or Public Holidays
- (c) The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

21. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem

to be reasonable, the noise from the construction site is not to exceed the following:

A. Short Term Period - 4 weeks.

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

B. Long term period - the duration.

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

[DUR0215]

22. 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]

23. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

24. 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]

25. 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]

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

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

[DUR0645]

27. 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]

28. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. Such materials shall either be recycled or disposed of in a manner acceptable to Councils General Manager or his delegate.

[DUR1015]

29. All works shall be carried out in accordance with Councils Acid Sulfate Soils Management Plan for Minor Works. A signed copy of this Management Plan shall be submitted to Council prior to the commencement of works.

[DUR1075]

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

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

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

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

[DUR1495]

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

[DUR1505]

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

[DUR1515]

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

[DUR1545]

34. All shelving, benches, fittings and furniture on which appliances and utensils are positioned within the premises must be of durable, smooth, impervious material capable of being easily cleaned. [DUR1605]
35. The walls immediately behind any basin shall be provided with an impervious splashback to a height of 450mm and at least 150mm either side of the basin. [DUR1625]
36. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428. [DUR1685]
37. Where a building or part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428. [DUR1695]
38. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia. [DUR1705]
39. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works. [DUR1795]
40. 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 any use or occupation of the buildings. [DUR1875]
41. 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]
42. 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]



43. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials.  
[DUR2205]
44. 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]
45. 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]
46. 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]
47. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.  
[DUR2545]
48. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 45°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50°C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.  
[DUR2555]

#### PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

49. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.
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[POC0005]

50. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 6.9 and 6.10 unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

51. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

52. 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]

53. The premises is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request.

[POC0635]

54. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

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

[POC1055]

56. Prior to the issue of the occupation certificate, an updated Operational Plan of Management to be submitted to the General Manager or his delegate for approval. This plan shall reflect the approved student and staff numbers, operating times and traffic management measures. The plan shall address, but not be limited to, the following matters:

- (a) Standard hours of operation and term times as per the NSW standard timetable
- (b) Staffing and student supervision arrangements
- (c) Traffic and pedestrian management measures including:
  - Allocation of car parking spaces on site for staff parking and student drop-off/pick-up
  - Management/supervision of students accessing the bus zone
  - Management/supervision of students accessing the onsite carpark for drop-off/pick-up

- Management/supervision of students accessing Knox Park within school operating hours
- School transport policy

(d) Noise management measures for the use of outdoor areas

(e) Establishment of a Complaint Management System for complaints in relation to the operation of the school.

[POCNS01]

## USE

57. 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]

58. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.

[USE0175]

59. Hours of operation of the business are restricted to the following hours:

- (a) 8.00am to 3.00pm - Mondays to Fridays for normal school operational hours in accordance with the NSW Standard School term.
- (b) 8.00am to 9.00pm - Mondays to Saturdays for extracurricular operations (including but not limited to parent/teacher meetings, board meetings, special assemblies, student productions and the like).
- (c) The number of extracurricular student events including special assemblies, student productions and student presentations to be limited to not more than four (4) in any 12 month period. Property owners and residents on King Street and Prince Lane to be notified in writing of any such extracurricular student events a minimum of 5 days in advance of the event.
- (c) No operations are to be carried out on Sundays or Public Holidays.
- (d) All deliveries to the school are to occur from King Street between the hours of 9.30am to 2.45pm Monday to Friday.

Note: This condition does not preclude the use of existing facilities or buildings for the purposes of school-based child care, or for the physical, social, cultural or intellectual development or welfare of the community (whether or not it is a commercial use of the establishment) as exempt development outside of the

hours specified above as authorized by Clause 38(1)(i) of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*.

[USE0185]

60. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.

[USE0225]
  61. The development shall be carried out in accordance with the provisions of the Environmental Noise Impact Assessment Report prepared by CRG Acoustics Ref: crgreg: 17183 Report Rev 2 and dated 18 December 2017 except where amended by the conditions of this consent.

[USE0305]
  62. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.

[USE0735]
  63. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act* 2003, FSANZ Food Safety Standards and AS 4674-2004 Design, construction and Fit-out of Food Premises and other requirements of Councils Environmental health Officer included in this approval.

[USE0835]
  64. Students are not to leave the grounds of the premises during school hours unless appropriate arrangements have been made for their supervision.

[USENS01]
  65. All regulatory signage within the road reserve, including bus zones and school speed zones, as deemed satisfactory by the Tweed Local Traffic Committee and as approved by Council and/or Roads and Maritime Services shall be installed prior to the use of the site in accordance with this consent.

[USENS02]
  66. The development shall operate in accordance with the Plan of Management approved under this consent.

[USENS03]
- B. Council issue owner's consent for the development application proposal for the construction of a bus zone in the King Street road reserve.

*The Motion was **Carried***

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

**AGAINST VOTE - Cr P Allsop**

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- 3 [PR-PC] Assessment of Acoustic Barrier Design to Satisfy Condition No. 5 of Court Approved Development Application DA15/1064 for a Redevelopment of Waterslide Playground at Lot 1 DP 1014298 No. 1-3 Tweed Coast Road, Hastings Point**
-

Cr C Cherry declared a Non-Significant, Non-Pecuniary Interest in Item 3 [PR-PC] Assessment of Acoustic Barrier Design to Satisfy Condition No. 5 of Court Approved Development Application DA15/1064 for a Redevelopment of Waterslide Playground at Lot 1 DP 1014298 No. 1-3 Tweed Coast Road, Hastings Point. The nature of the interest is that Cr C Cherry's family has an interest in a caravan park. Cr C Cherry will manage the Interest by staying in the chamber and assessing the matter on merit alone.

**P 27**

**Cr W Polglase  
Cr P Allsop**

**RECOMMENDED** that Council:

1. In respect of the Court approved redevelopment of a waterslide playground at Lot 1 DP 1014298 No. 1-3 Tweed Coast Road, Hastings Point, issues correspondence to the applicant advising that the submitted information satisfies the relevant provisions of Condition No. 5 of the consent.
2. Requests the proponent consider installing a noise barrier for the stairwell as previously proposed by the proponent in the section 82A review for the benefit of the community.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**4 [PR-PC] Draft Aboriginal Cultural Heritage Management Plan 2017**

**P 28**

**Cr R Cooper  
Cr P Allsop**

**RECOMMENDED** that Council receives and notes the update on the draft Aboriginal Cultural Heritage Management Plan 2017, which outlines matters related to rezoning, greenfield and subdivision raised during the extended community consultation with a further review to be undertaken and reported to Council.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**5 [PR-PC] Protecting Tweed's Native Forests**

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**P 29**

**Cr K Milne  
Cr W Polglase**

**RECOMMENDED** that a meeting is convened for Councillors, government agencies and relevant Council officers to discuss options for improving the protection of Tweed's native forests.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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**6 [PR-PC] Tiny Homes Audit Council Land**

**P 30**

**Cr R Byrnes  
Cr R Cooper**

**ALTERNATE MOTION**

**RECOMMENDED** that the matter be deferred until such time as the State Government comes back with a list of appropriate land as already requested by Council.

The Motion was **Carried**

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

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**7 [PR-PC] Short Term Rental Accommodation - Update on Compliance Actions for Alleged Unauthorised Short Term Rental Accommodation**

**P 31**

**Cr W Polglase  
Cr P Allsop**

**PROPOSED** that Council receives and notes this report on current complaints received in respect of alleged unauthorised Short Term Holiday Let uses and takes no further action.

**AMENDMENT 1**

**P 32**

**Cr C Cherry  
Cr K Milne**

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**RECOMMENDED** that Council receives and notes this report on current complaints received in respect of alleged unauthorised Short Term Holiday Let uses and Council officers continue to investigate complaints received.

Amendment 1 was **Carried**

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

Amendment 1 on becoming the Motion was **Carried** - (Minute No **P 32** refers)

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

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**8 [PR-PC] Low Rise Medium Density Housing Code - Request for Deferral of Commencement Within Tweed Shire Council LGA**

**P 33**

**Cr C Cherry**  
**Cr P Allsop**

**RECOMMENDED** that:

1. The attached letter (Attachment 1), which requests a deferral of the commencement of the NSW Department of Planning's 'Low Rise Medium Density Housing Code' be forwarded to the Secretary of Department of Planning and Environment; and
2. The General Manager write to the Secretary under separate cover requesting an urgent update on Planning Proposal PP17/0001 'Housekeeping Review of Development Standards'.
3. **ATTACHMENT 1 is CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
  - (e) information that would, if disclosed, prejudice the maintenance of law.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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

**P 34**

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**Cr J Owen**  
**Cr P Allsop**

**RECOMMENDED** that Council notes the May 2018 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

The Motion was **Carried**  
**FOR VOTE - Unanimous**

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## **LATE ITEMS**

### **LATE ITEM**

**P 35**

**Cr K Milne**  
**Cr C Cherry**

**RESOLVED** that Item 10 being an Addendum item be dealt with and it be ruled by the Chairman to be of great urgency.

The Motion was **Carried**

**FOR VOTE - Unanimous**

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

**10 LATE [PR-PC] Tweed Sand Quarry Mod 1 - TSC Submission to Department of Planning and Environment (DA05/0905.01)**

**P 36**

**Cr K Milne**  
**Cr C Cherry**

**RECOMMENDED** that:

1. Council endorses the comments contained within this report and the preliminary submission in Attachment 1 of this report with additional wording as follows:

*“Council does not support this application due to the inappropriateness of allowing such intensive extractive industry in this National Iconic Landscape, and the high level use of large trucks on Tweed Coast Rd in this populated residential and iconic coastal tourist area that will invariably reduce both safety and amenity, and impact on the economic values of the area as well as its attractiveness in regard to the low key coastal village aspirations and the green belt clearly identified as the preferred scale and intensity of development by the community through numerous strategic planning documents over many years.*

*If this development is supported the following matters are requested for inclusion in conditions of consent:*



*Council has serious concerns about the environmental impacts of this proposed expansion and the lack of available data on the annual compliance and reporting since 2011. The lack of available data makes it difficult to assess the current and future impacts of this operation. It is requested that all annual compliance and reporting data is made publicly available.*

*Council requests that water quality is a key consideration in this assessment to ensure improved water quality of the drainage systems and the Tweed River, and that any impacts are avoided or at least offset by generous enhancements to the marine environment.*

*Council notes the international significance of the Tweed Caldera, the proximity of the highly significant Stotts Island Nature Reserve, the lack of interconnecting vegetation corridors across the landscape in this area, and strongly requests that appropriate revegetation is required to contribute to addressing this deficit.*

*Council raises serious concerns about residents health and safety from air pollution particulate matter and requests that operations are such that increases in particulate matter, especially fine and ultra fine particulate matter are not accepted.*

*Council raises serious concerns about long term carbon emissions from these operations and requests that green energy is sourced and/ or offsets are provided in this Shire in the form of revegetated areas.*

*Visual impacts should be reduced wherever possible by minimising the operational areas at any one time, and requiring landscaping of all available areas wherever possible and as soon as possible.*

*Council requests that the health of the aquatic environment and marine life should be thoroughly tested, monitored and reported on by the proponent for the lake, surrounding drains and receiving waters of the river for the duration of the activity, and for 30 years after the activity ceases or longer if any issues are not resolved, and that any concerns are adequately remediated.*

*Council requests a meeting with the Department of Planning to further discuss these matters.*

*Council notes the request from the Cane Growers that an agreement be established enabling the areas to be utilised for cane farming until such a time that it is required for quarry development, and Council strongly supports this request to ensure the ongoing viability of this industry.*

*Council requests a deferred commencement condition be imposed to restrict this expansion until Tweed Coast Rd is upgraded to 4 lanes.”*

2. The endorsed submission be forwarded to the Department of Planning and Environment with regard to the proposed modifications of the Tweed Sand Quarry Approval (DA 152-6-2005 Mod 1).

The Motion was **Carried**

***FOR VOTE - Cr R Byrnes, Cr C Cherry, Cr R Cooper, Cr K Milne***

***AGAINST VOTE - Cr J Owen, Cr W Polglase, Cr P Allsop***

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There being no further business the Planning Committee Meeting terminated at 6.45pm.

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