



Byron Shire Council



Agenda

Ordinary Meeting

Thursday, 25 August 2016

held at Council Chambers, Station Street, Mullumbimby
commencing at 9.00am

Public Access relating to items on this Agenda can be made between 9.00am and 10.30am on the day of the Meeting. Requests for public access should be made to the General Manager or Mayor no later than 12.00 midday on the day prior to the Meeting.

Ken Gainger
General Manager

CONFLICT OF INTERESTS

What is a “Conflict of Interests” - A conflict of interests can be of two types:

Pecuniary - an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.

Non-pecuniary – a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the Local Government Act (eg. A friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

Remoteness – a person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in Section 448 of the Local Government Act.

Who has a Pecuniary Interest? - a person has a pecuniary interest in a matter if the pecuniary interest is the interest of the person, or another person with whom the person is associated (see below).

Relatives, Partners - a person is taken to have a pecuniary interest in a matter if:

- The person’s spouse or de facto partner or a relative of the person has a pecuniary interest in the matter, or
- The person, or a nominee, partners or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.

N.B. “Relative”, in relation to a person means any of the following:

(a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the person’s spouse;

(b) the spouse or de facto partners of the person or of a person referred to in paragraph (a)

No Interest in the Matter - however, a person is not taken to have a pecuniary interest in a matter:

- If the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body, or
- Just because the person is a member of, or is employed by, the Council.
- Just because the person is a member of, or a delegate of the Council to, a company or other body that has a pecuniary interest in the matter provided that the person has no beneficial interest in any shares of the company or body.

Disclosure and participation in meetings

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
 - (a) at any time during which the matter is being considered or discussed by the Council or Committee, or
 - (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

No Knowledge - a person does not breach this Clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

Participation in Meetings Despite Pecuniary Interest (S 452 Act)

A Councillor is not prevented from taking part in the consideration or discussion of, or from voting on, any of the matters/questions detailed in Section 452 of the Local Government Act.

Non-pecuniary Interests - Must be disclosed in meetings.

There are a broad range of options available for managing conflicts & the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary conflicts of interests must be dealt with in at least one of the following ways:

- It may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquishing or divesting the personal interest that creates the conflict)
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in S451 of the Local Government Act apply (particularly if you have a significant non-pecuniary interest)

RECORDING OF VOTING ON PLANNING MATTERS

Clause 375A of the Local Government Act 1993 – Recording of voting on planning matters

- (1) In this section, **planning decision** means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979:
 - (a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
 - (b) not including the making of an order under Division 2A of Part 6 of that Act.
- (2) The general manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- (3) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- (4) Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulations.
- (5) This section extends to a meeting that is closed to the public.

BYRON SHIRE COUNCIL

ORDINARY MEETING

BUSINESS OF ORDINARY MEETING

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15. QUESTIONS WITH NOTICE

Nil

Councillors are encouraged to ask questions regarding any item on the business paper to the appropriate Director prior to the meeting. Any suggested amendments to the recommendations should be provided to Councillor Support prior to the meeting to allow the changes to be typed and presented on the overhead projector at the meeting.

NOTICES OF MOTION

Notice of Motion No. 9.1 Councillor Membership Post-Election of Committees
File No: I2016/679

5

I move that Council:

- 1. Offer each Councillor serving on an Advisory Committee, Section 355 Committee or Project Reference Group short-term “community membership” of that committee or PRG, up to the post-election disbandment of the Committee or PRG.**
- 2. Revise the standard template constitution for Advisory Committees and PRGs to incorporate the above provision into the following clauses or similar:**
 - a) on membership, by a note that any retiring Councillor is offered community membership until disbandment;**
 - b) on quorum, by notes (i) that re-elected Councillors may retain Councillor membership until disbandment and (ii) that the new Mayor can make up Councillor quorum until disbandment; and**
 - c) a new clause on duration, that the Committee or PRG may meet after the end of term of that Council until disbandment with community members retaining their status, returning Councillors retaining their status, the new Mayor being able to attend the meeting(s) and retiring Councillors being installed if they wish as community members.**
- 3. Make the offers required in Part 1 above by email in the week after the election and on the basis of the arrangements in Part 2 above, or similar .**

10

Councillor’s Background Notes:

Council’s Advisory Committees and Project Reference Groups will ‘survive’ the election on 10 September 2016 to the extent of still being able to meet and deal with their advisory role in their pre-election format. The first or second meeting of Council will then reformat the Committees and PRGs and appoint Councillors. Community positions will be advertised and community members are likely to be appointed in November or December 2016.

For current Councillors retiring from office, this creates a gap in the opportunity to contribute to the advisory process because they lose committee membership from the end of their term on Council. They can then apply to join the new Committee or PRG, along with other community applicants. The applications are usually determined by Council towards the end of the year.

This motion offers Councillors like myself, who wish to continue their contribution through the transition period, an avenue to do so. This was a problem for me when I retired in 2004 from Council. I wish to overcome it for myself, any other current Councillor and any future enthusiast.

In my own case, I wish to continue as a community member after 10 September on the following Committees and PRGs:

30

1. Belongil Catchment Advisory Committee
2. Belongil Creek Floodplain Risk Management Advisory Committee
3. [Community Infrastructure Advisory Committee](#)
4. [Durrumbul Community Hall Section 355 Management Committee](#)
5. [Koala Plan of Management Project Reference Group](#)
6. [North Byron Coastal Creeks Flood Risk Management Committee](#)
7. [Transport Advisory Committee](#)
8. [Water, Waste and Sewer Advisory Committee](#)

10 The Mullumbimby Masterplan Scoping Project Reference Group has already ceased operation.

Recommended priority relative to other Delivery Plan tasks:

15 This is a minor procedural matter requiring little priority but also little time to execute. The election in September creates the time frame – these appointments should occur in the week following it.

Definition of the project/task:

20 Appoint as community members to Council's Advisory Committees and Project Reference Groups those ex-Councillors who wish to continue on Committees and / or PRGs where they held membership as a Councillor in the 2012-16 term of Council. That membership then expires at the same time as for other community members of the Committee or PRG.

Source of Funds (if applicable):

25 No funding is required.

Signed: Cr Duncan Dey

30 **Management Comments by Mark Arnold, Director Corporate and Community Services:**
(Management Comments must not include formatted recommendations – resolution 11-979)

Clarification of project/task:

35 The next Council at its first meeting on 29 September 2016 will consider three (3) reports regarding firstly the establishment of the Advisory Committees, Project Reference Groups and Section 355 Committees, and then secondly the determination of the Councillor Representatives on these Committees. Council will also following the election seek nominations for Community representatives on the Advisory Committees, Project Reference Groups and Section 355
40 Committees established by the new Council. The Community Representatives will be appointed by the new Council.

45 The Notice of Motion lodged by Cr Dey proposes that the current Council appoint from 10 September to the date of the appointment of the new community representatives the Advisory Committees, Project Reference Groups and Section 355 Committees, any Councillor that nominates themselves, as a Community Representative.

This would be a new practice and create a precedent for future Councils.

50 The Notice of Motion is also proposed on the basis that the current structure for Advisory Committees, Project Reference Groups and Section 355 Committees will be confirmed by the new Council, and that these Advisory Committees, Project Reference Groups and Section 355 Committees will meet in the period between the election, and the appointment of the new Community Representatives. This may or may not be the case.

55

The Guidelines for Section 355 Management Committees adopted by Council states:

5 *“The term of office for Section 355 Management Committees and the Boards of Management is the same term as the current Council, with the addition of an extra three months after the General 15 Election of Councillors ie all Section 355 Management Committee members will cease to hold office at the end of December 2016.”*

10 Staff understand the desire of Cr Dey to continue to be a part of these Committees following the election, and the community benefit that it may bring, and that the Notice of Motion is proposed to enable any Councillor to continue to serve and contribute to the community, but the precedent that it would set would impact on future Councils.

15 The appointment of Community Representatives is a matter for Council and would require the terms of reference for each the effected Advisory Committees and Project Reference Groups to be amended to incorporate the additional number of Community Representatives.

Director responsible for task implementation:

20 Director Corporate and Community Services

Relationship to, priority of, and impact on other projects/tasks:

There would be a minimal impact on other projects/tasks.

25 Financial and Resource Implications:

30 There would be no financial impacts should Council adopt the Notice of Motion proposed by Cr Dey. There would no fees or allowances payable to a Councillor appointed as a community representative from 10 September to the appointment of community representatives by Council to the Advisory Committees, Project Reference Groups and Section 355 Committees established by the Council for the next term of Council.

Legal and Policy Implications:

35 This would create a precedent for future Councils.

Notice of Motion No. 9.2 **Butler Street Toilets**
File No: I2016/880

I move that Council take immediate action to upgrade and or improve the amenities block on the Butler Street Reserve.

Attachments:

1 NOM Butler Street Toilets Photos, E2016/74735

Councillor's Background Notes:

The condition of the amenities block on the Butler Street Reserve is a disgrace and an embarrassment to Council.

There is very poor lighting, which presents a danger to the public, and there is rubbish continually left inside and around the building.

The overall appearance is very poor.

The Market stall holders are disgusted with the appalling state of the building and as the Markets draw many tourists to the site, it is imperative that Council take action to make the building safe and clean.

Recommended priority relative to other Delivery Plan tasks:

Definition of the project/task:

The toilet block is to be maintained to acceptable standards that reflect favourably on Byron Shire. The toilets are operated and cleaned by the Byron Community Market Managers who keep the block locked outside market hours and advise Council of any major maintenance issues required. Council has upgraded the electrical installation to meet safety requirements and recently replaced a broken pan. Agreement has recently been reached for the Managers to paint the toilet block.

Source of Funds (if applicable):

Potential to use Crown Reserves Funds

Signed: Cr Dianne Woods

Management Comments by Peter Rees, Manager Utilities:

(Management Comments must not include formatted recommendations – resolution 11-979)

Clarification of project/task:

Continued liaison with the Byron Community Market Managers and Council is required to ensure the toilet block is operated and maintained to an acceptable standard.

Any major upgrade and/or improvement will require a funding allocation to engage suitable consultants to develop plans and specification for works.

Director responsible for task implementation:

Director Infrastructure Services

5 Relationship to, priority of, and impact on other projects/tasks:

Part of toilet maintenance regime and the lease obligations of the Byron Community Market Managers.

10 Financial and Resource Implications:

Nil

15 Legal and Policy Implications:

Nil.

I request Council staff to provide the Speed Review as an Attachment to this NoM.

Recommended priority relative to other Delivery Plan tasks:

5

This is a procedural matter that can be executed immediately.

The Motion aligns with the following Key Activities of Council's Delivery Program 2013-2017:

10

CM 1.1.2: Review and implement internal systems and procedures.

CM 2.2.2: Promote compliance through advice and information.

CM 4.1.1: Ensure compliance priorities align with current health and safety issues.

CI 2.3.1: Provide road and transport infrastructure within the Shire.

Definition of the project/task:

15

Cease spot Speed Reviews and approach the issue of road Speed Review systemically.

Source of Funds (if applicable):

20

No funding is required for this change of procedure. If Council were to take over the role of carrying out Speed Reviews, that would require funding in a future budget or, if sooner, via a Quarterly Budget Review.

Signed: Cr Duncan Dey

25

Management Comments by Tony Nash, Manager Works:

(Management Comments must not include formatted recommendations – resolution 11-979)

Clarification of project/task:

30

To stop undertaking spot speed limits reviews and instead undertake a systematic review of all the speed limits on the entire road network.

35

The Roads & Maritime Services (RMS) are the sole agency responsible for setting speed limits on NSW roads. Discussions will need to be held with key management and traffic operational staff from RMS and Council to further clarify the task, the various delivery models for the systematic review, the resources and budgets required from both organisations, the review of legislative requirements and the agency processes.

40

Director responsible for task implementation:

Director Infrastructure Services

Relationship to, priority of, and impact on other projects/tasks:

45

Currently this is not included as a project for staff. The impacts on other Council projects and tasks will need to be considered after the discussions with RMS about the options of how this project can be delivered.

50

Financial and Resource Implications:

This is unknown at this time but will be developed after the discussions with RMS.

Legal and Policy Implications:

RMS are the sole agency responsible for setting speed limits on NSW roads and the process normally used in a review of speed limits on a road are:

- 5 1. Joint site inspection with RMS & Council staff including:
 - a. Drive the roads in both directions whilst videoing the journey.
 - b. Document the number & location of private driveways
 - c. Record the road width
 - d. Record the road geometry noting the speed around and over curves
- 10 2. Assessment and consideration of site information by RMS
3. Report with recommendations prepared by RMS and sent to Council.
4. Report with recommendations considered by Council Local Traffic Committee.
5. If a speed change proposed by RMS in their report, then a letter and a Speed Zone Authorisation sent to Council.
- 15 6. Council to estimate costs for installation of speed zone and apply for financial assistance.
7. Once financial assistance approved, then Council implement in accordance with RMS requirements including advance notification and documentation of works.

(2) dwellings are to be used in perpetuity for the purposes of 'affordable housing' (as defined in the *Environmental Planning and Assessment Act 1979* and *State Environmental Planning Policy [Affordable Rental Housing] 2009*), and these dwellings are to be managed by a registered community housing provider (*registered community housing provider* has the same meaning as in the *Housing Act 2001*).

4) Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

- (1) For the purposes of [section 80A](#) (11) of [the Act](#), the following conditions are prescribed in relation to a development consent for development that involves any building work:
 - (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia ,
 - (b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (2) This [clause](#) does not apply:
 - (a) to the extent to which an exemption is in force under [clause](#) 187 or 188, subject to the terms of any condition or requirement referred to in [clause](#) 187 (6) or 188 (4), or
 - (b) to the erection of a temporary building.
- (3) In this [clause](#), a reference to the Building Code of Australia is a reference to that Code as in force on the date the [application](#) for the relevant construction certificate is made.

5) Erection of signs

- (1) For the purposes of [section 80A](#) (11) of [the Act](#), the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (2) 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 work site is prohibited.
- (3) 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.
- (4) This [clause](#) does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (5) This [clause](#) does not apply in relation to Crown building work that is certified, in accordance with Section 109R of [the Act](#), to comply with the technical provisions of the State's building laws.
- (6) This [clause](#) applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note: Principal certifying authorities and principal contractors must also ensure that signs required by this [clause](#) are erected and maintained (see [clause](#) 227A which currently imposes a maximum penalty of \$1,100).

6) Notification of Home Building Act 1989 requirements

- (1) For the purposes of [section 80A](#) (11) of [the Act](#), the requirements of this [clause](#) are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the [Home Building Act 1989](#).
- (2) Residential building work within the meaning of the [Home Building Act 1989](#) must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council [written notice](#) of the following information:
 - (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
 - (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council [written notice](#) of the updated information.
- (4) This [clause](#) does not apply in relation to Crown building work that is certified, in accordance with Section 109R of [the Act](#), to comply with the technical provisions of the State's building laws.

7) Television reception system

A single common television reception system provided with a design to minimise adverse visual impacts whilst enabling high quality reception for each dwelling.

8) External lighting installation

To maintain safe access, adequate lighting must be provided between sunset and 12.00 PM. All external lighting must be installed in accordance with AS4282-1997: Control of the obtrusive effects of outdoor lighting.

9) No Interference with Amenity of Neighbourhood

The proposed use of the premises shall not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:

- a) The noise level emanating from the use of the premises must comply with the New South Wales Industrial Noise Policy.
- b) Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters.

10) Provision of a share car on site

At all times a dedicated share car for residents of the site is to be provided. When not in use the car is to be parked on site. The share car is to be made available to all residents of the subject site who are registered to use the vehicle. The share car is to be available for use by the residents 24hrs a day, 7 days a week with bookings to be made via the internet. The share car is to be maintained in complete working order, registered and insured by the owner of the property.

The following conditions are to be complied with prior to issue of a Construction Certificate

11) A Demolition Management Plan must be submitted to Council for approval

An Environmental Management Plan (EMP) must be submitted to Council for approval prior to any demolition works commencing. The EMP must be prepared by a suitably qualified professional and contain details of measures to be undertaken to ensure that demolition works do not result in any off-site impacts that could interfere with neighbourhood amenity by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise.

All works must be in accordance with NSW WorkCover Authority.

12) Engineering Certification

Written certification is to be submitted to the Principal Certifying Authority from a suitably qualified engineer to confirm that the proposed demolition works on the subject site will not detract from the structural integrity of any structure located on an adjoining property.

13) Details of the garbage, composting and recycling storage area required

Details of the waste storage area (garbage, recycling and green bins) are required to be shown on the construction certificate drawings. The details are to include a concrete slab on ground for the waste storage area shown on the approved Site Plan referred to in Condition No.1.

14) Boundary fencing

Acoustically rated boundary fencing is to be provided along the northern, southern and rear (eastern) boundaries to a height of 1.8 metres above ground level. The northern and southern side boundary fencing is to be of concrete, brick, block or AAC (Hebel) construction (excluding the area of 'side return fencing').

Front boundary fencing (including 'side return fencing', that being the sides located between the front building line and the front property boundary to Stuart Street) is to be a maximum of 1.2 metres in height and incorporate plain heritage style picket fencing.

The proposed rear boundary fencing is to include lapped and capped hardwood timber construction or other materials which are compatible with the heritage character of the area. The total cost of all new fencing is to be at the expense of the applicant/developer.

15) Water and Sewerage - Section 68 approval required

An Approval under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained.

16) Remediation of contaminated land

The application for a construction certificate must be accompanied by a Detailed Contaminated Land Assessment, and Remedial Action Plan (if required) prepared by a suitably qualified contaminated land specialist with experience in the remediation of contaminated land. The Remedial Action Plan must conform to NSW EPA *Guidelines for Consultants Reporting on Contaminated Sites 1997* and all other applicable standards.

The Remedial Action Plan must be approved as part of the Construction Certificate for Building Works.

17) On-site stormwater detention - Section 68 approval required

An approval under Section 68 of the Local Government Act 1993 to carry out on-site detention drainage system and connection to a Council approved drainage system.

The plans must be in compliance with the Northern Rivers Local Government Development Design and Construction Manuals, Byron Shire Council Comprehensive Guidelines for Stormwater Management and relevant Australian Standards. Refer to Council's website for copies of Council

documents.

18) Sediment and Erosion Control Management Plan required

The application for a Construction Certificate is to include plans and specifications that indicate the measures to be employed to control erosion and loss of sediment from the site. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as filter fences and sedimentation basins.

Such plans and specifications must be approved as part of the Construction Certificate.

NOTE: The plans must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

19) Consent required for works within the road reserve

Consent from Council must be obtained for works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans must accompany the application for consent for works within the road reserve.

Such plans are to be in accordance with Council's current Design & Construction Manuals and are to provide for the following works:

Driveways - McCoughans Lane	Construct 2 new driveways from the edge of pavement seal through to the property boundary; inclusive of piped culverts with precast concrete headwalls. The driveways are to be generally in accordance with Council's standard "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".
Road pavement and drainage – McCoughans Lane	A minimum 3m wide bitumen sealed pavement for the full width of the subject site and either North to join the existing sealed section adjoining the car park at the rear of No. 108 Stuart Street or South to the existing bitumen sealed section at the rear of 93 Station Street. The table drains are to be cleared out, re-profiled and stabilised.
Stuart Street	Remove the existing vehicle bridge over the table drain. Replace any damaged sections of the concrete table drain in front of the property to improve drainage along Stuart Street.
Adjustment of Services	The road works are to include the adjustment and/or relocation of services as necessary to the requirements of the appropriate service authorities and to ensure that the services are constructed flush with the finished surface levels.

20) Traffic Management Plan

Consent from Council must be obtained for a Traffic Management Plan pursuant to Section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction of the development. The traffic control plan is to be designed in accordance with the requirements of the Roads and Traffic Authority's Manual, Traffic Control at Work Sites Version 2, and the current Australian Standards, Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'.

"The plan shall incorporate measures to ensure that motorists using road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site".

The traffic control plan must be prepared by a suitably qualified and RTA accredited Work Site Traffic Controller.

21) Car parking layout, vehicle circulation and access plans required.

The application for a Construction Certificate is to include plans and specification that indicate access, parking and manoeuvring details in accordance with the plans approved by this consent.

The access, parking and manoeuvring for the site is to comply with the requirements of Council's Development Control Plan 2014, AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking and AS 2890.2 – 2010 - Parking facilities, Part 2: Off-street commercial vehicle facilities. Plans are to include, but not be limited to, the following items:

- a) pavement description;
- b) site conditions affecting the access;
- c) existing and design levels;
- d) longitudinal section from the road centreline to the car space(s);
- e) cross sections every 15 metres;
- f) drainage (pipes, pits, on-site detention, etc.);
- g) turning paths;
- h) linemarking and signage.
- i) Sight distances for the fences at the entry onto the lane are to comply with AS 2890.1 clause 3.2.4

The engineering plans and specifications are to be designed by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

Such plans and specifications must be approved as part of the Construction Certificate.

NOTE: The plans must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

22) Flood Planning Level for new buildings

The flood planning level for this development is 4.45m A.H.D. The plans and specifications to accompany the construction certificate application are to indicate a minimum habitable floor level that is at or above the flood planning level.

The plans and specifications to accompany the construction certificate application are also to indicate the use of flood compatible materials and services below the flood planning level in accordance with the requirements of Council's Development Control Plan 2014 – Chapter C2 – Areas Affected by Flood.

23) Bond required to guarantee against damage to public land

A bond of \$4000 is to be paid to Council as guarantee against damage to surrounding public land and infrastructure during construction of the proposed development. Evidence is to be provided to Council indicating the pre development condition of the surrounding public land and infrastructure. Such evidence must include photographs. The proponent will be held responsible for the repair of any damage to roads, kerb and gutters, footpaths, driveway crossovers or other assets.

Such bond will be held until Council is satisfied that the infrastructure is maintained/repared to pre development conditions and that no further work is to be carried out that may result in damage to Council's roads, footpaths etc.

24) Certificate of Compliance – Water Management Act 2000

A Certificate of Compliance will be issued upon payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous Water Development Servicing Plans.

Byron Shire Council acts as Rous Water's agent in this matter and will issue a Certificate of Compliance on behalf of Rous Water upon payment of the Rous Water Development Servicing Charge to this Council.

Note: Copies of the application forms for Certificates of Compliance are available on Council's website http://www.byron.nsw.gov.au/files/Forms/Section_305_Certificate.pdf or from Council's Administration Office. Copies of Byron Shire Council's Development Servicing Plans are available at Council's Administration Office.

Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment. A check must be made with Council to ascertain the current rates by contacting Council's Principal Engineer Systems Planning, Water on 02 6626 7081. Applicable charges can be found on Council's website: <http://www.byron.nsw.gov.au/development-contributions-plans-section-94-and-64>

The contributions payable will be adjusted in accordance with relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment. Payment by Personal or Company Cheque will not be accepted.

25) Compliance with BASIX Certificate requirements

The development is to comply with BASIX Certificate No.716163M_02, dated 10 June 2016. The commitments indicated in the Certificate are to be indicated on the plans submitted for approval of the Construction Certificate.

The plans submitted must clearly indicate all windows numbered or identified in a manner that is consistent with the identification on the BASIX Certificate.

Minor changes to the energy efficiency measures may be undertaken without the issue of an amendment under Section 96 of the Act, provided that the changes do not affect the form, shape or size of the building.

Proposed external colours/materials must be consistent with those shown on the approved plans referred to in Condition No.1 of this consent. Such plans and specifications must be approved as part of the Construction Certificate.

26) Developer Contributions to be paid

Contributions set out in the schedule at the end of this consent are to be paid to Council prior to the release of a construction certificate. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended).

The Plan may be viewed on line at <http://www.byron.nsw.gov.au/> or during office hours at the Council Offices located at Station Street, Mullumbimby. These contributions are to fund public amenities and services as listed in the schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended).

The contributions in the schedule are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The schedule contains a date for which the schedule remains valid, after this date you will have to contact Council for an updated schedule. Payments will only be accepted by cash or bank cheque.

27) Landscaping plan required

The application for a Construction Certificate is to include plans and specifications that indicate the landscaping of the site. Such landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Chapter B9 (Landscaping) of Byron Development Control Plan 2014. Species are to be chosen from Byron Council's Native Species Planting Guide, available at www.byron.nsw.gov.au/publications/native-species-planting-guide. The landscaping plan must indicate:

- a) proposed location for planted shrubs and trees
- b) botanical name of shrubs and trees to be planted
- c) mature height of trees to be planted
- d) location of grassed and paved areas, and
- e) The plan is to be prepared by a suitably qualified person/s who has appropriate experience and competence in landscaping.
- f) The area of proposed landscaping of indigenous or low water use species as specified on the BASIX Certificate.

Such plans and specifications must be approved as part of the Construction Certificate.

The following conditions are to be complied with prior to commencement of building works

28) Traffic Management Plan

The approved traffic management plan is to be implemented.

29) Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

30) Prevention of water pollution

Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

31) Erosion and Sediment Control Management Plan required

Erosion and sedimentation controls are to be in place in accordance with the approved Erosion and Sediment Control Plan.

Sediment and erosion control measures in accordance with the approved Erosion and Sedimentation Control plan/s must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

Note: Council may impose on-the-spot fines for non-compliance with this condition.

32) Remediation of contaminated land (if required)

Prior to the commencement of any works associated with this development consent, the following is required:

- a) A suitably qualified contaminated land specialist with experience in the remediation of contaminated land must be engaged by the proponent to oversee and be responsible for all works associated with the implementation of the Remedial Action Plan and subsequent site and soil validation.
- b) A notice of commencement of the remediation work and a copy of the Remedial Action Plan must be provided to Council's Health and Environment Section prior to commencement of the -work.
- c) The notice of commencement must include contact details of the responsible person, including an emergency 24-hour phone number.

33) Remediation of contaminated land

If required remedial works must be undertaken in conformance with the approved Remedial Action Plan and NSW EPA *Guidelines for Consultants Reporting on Contaminated Sites 1997* and all other applicable standards.

34) Removal of wastes

All wastes associated with these works are to be handled and disposed of in accordance with the requirements of the Work Cover Authority. The applicant/owner is to produce documentary evidence that this condition has been met. Wastes must be disposed of at a Licensed Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with *NSW DECC Waste Classification Guidelines (2014)*

www.environment.nsw.gov.au/resources/waste/08202classifyingwaste.pdf

35) Erosion & sediment measures

Erosion and sedimentation controls are to be in place in accordance with the *Guidelines for Erosion & Sediment Control on Building Sites*. A summary of these guidelines is attached. A full copy may be downloaded from Council's web site at www.byron.nsw.gov.au.

36) WorkCover Authority

All works must be undertaken in accordance with the requirements of the WorkCover Authority.

The following conditions are to be complied with during demolition and construction

37) Site Waste Minimisation and Management Plan (SWMMP)

Construction works are to be undertaken in accordance with the approved SWMMP referred to in Condition No.1 of this Development Consent.

38) Construction/demolition times

Construction/demolition works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction/demolition noise, when audible from adjoining residential premises, can only occur:

- a) Monday to Friday, from 7 am to 6 pm.
- b) Saturday, from 8 am to 1 pm.

No construction/demolition work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

39) Construction/demolition Noise

Construction/demolition noise is to be limited as follows:

- a) For construction/demolition periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b) For construction/demolition periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A)

Note: Council may impose on-the-spot fines for non-compliance with this condition.

40) Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

The following conditions are to be complied with prior to issue of a Final Occupation Certificate

41) Works to be completed prior to issue of a Final Occupation Certificate

All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of a Final Occupation Certificate.

Any Security bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Councils road/footpath reserve.

42) Access and parking areas to be completed.

The access and parking areas are to be constructed in accordance with the approved plans and Roads Act consent.

43) Floor Levels – Certification for Flooding

Prior to the issue of an Occupation Certificate, a certificate from a registered surveyor must be submitted to the Principle Certifying Authority confirming the height of habitable and non-habitable floors. An Occupation Certificate must not be issued unless the floor levels are at or above the relevant flood planning levels.

44) Maintenance Bond

A maintenance bond of 5% (**minimum bond amount of \$1,000.00**) of the value of the road works constructed is to be lodged with Council. A copy of the contract construction cost of the road works is to be submitted with the bond. The maintenance period is 6 months in accordance with Council's current Design & Construction Manuals and will commence from the date of issue of the **Occupation Certificate**. The security may be provided, at the applicant's choice, by way of cash bond or a satisfactory bank guarantee. An application in writing for the release of the bond must be made at the satisfactory completion of the maintenance period.

45) Record of Infrastructure

A record of infrastructure coming into Council ownership is to be submitted to Council. The information is to be submitted in the form of Council's Standard Form titled "Asset Creation Record". This form is available from Council's Local Approvals Section.

46) Water service and meter to be connected to each dwelling

A water service and water meter must be connected to each residential dwelling in the development using an approved backflow prevention device. It is the applicant's responsibility to engage a licensed plumber who shall liaise with council during this process.

Any new water service and meter will be at the applicants cost.

47) Sewer and water to be connected

A Certificate of Compliance under Section 307 of the Water Management Act 2000 is to be obtained from Byron Shire Council prior to the issue of an Occupation Certificate for works on water and/or sewer mains.

Application forms are available from Council's administration building or online at

http://www.byron.nsw.gov.au/files/Forms/Section_305_Certificate.pdf to be submitted for a Certificate of Compliance.

48) Remediation of contaminated land (where required)

A notice of completion must be provided to Council's Health and Environment Section within 30 days of completion of the remediation work. The notice of completion must be accompanied by a Validation Report prepared by a suitably qualified person with experience in the remediation of contaminated land.

The Validation Report must specify the standard of remediation achieved and certify that the site is suitable for the proposed use. The report must conform to the NSW EPA *Guidelines for Consultants Reporting on Contaminated Sites 1997* and all other statutory requirements.

Documentary evidence must be provided confirming the method of disposal and destination of all contaminated soil removed from the site.

Reasons for conditions

- To comply with the provisions of the Local Environmental Planning Instrument.
- To preserve the environment and existing or likely future amenity of the neighbourhood.
- To protect the environment.
- To preserve the amenity of the area.
- To ensure adequacy of services to the development.
- In the interests of public health and safety.
- To ensure compliance with Section 68 of the Local Government Act 1993.

Notes

Schedule of Development Contributions

The following contributions are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The current contribution rates are available from Council offices during office hours. **Payments will only be accepted by cash or bank cheque.** (Spooner/Ibrahim).

If successful we intend to move:

- 5 1. **That Council consider DA 10.2016.189.1 for multi dwelling units (10 single bedroom units) and demolition of existing structures, after further consultation with the applicant on amendments to the proposal such that:**
 - a) **the development is made more compatible with the character of the local area (Clause 16A of the SEPP), and**
 - b) **building design is made more compatible with the heritage conservation zone, particularly regarding bulk, scale and form.**
- 10 2. **That Council receive a report on this consultation and any amendments proposed to the Application.**

15
Signed: Cr Duncan Dey
Cr Basil Cameron
Cr Rose Wanchap

Delegate's Report No. 12.2 **Far North Coast Bush Fire Management Committee Meeting of 5 July 2016**
File No: I2016/895

5

The Committee received a report by email on the Community Engagement Day held (in June, I think) in the Lilli Pilli area of Byron Bay. There are issues of fire safety due to (i) proximity of vegetation to dwellings and (ii) poor access for fire vehicles and lack of egress for residents.

Those attending are aware that defending their properties will be problematic. Strategies included real estate agents being distributed flyers to hand out to tenants on fire safety and setting up a phone-tree. Many residents wish to prepare a Bushfire Safety Plan for their household.

NCC facilitated the workshop as the area has High Conservation Value vegetation and hosts koala and the Mitchell Rainforest snail. NCC policy is to prepare people for bushfire. There were various on fire behaviour, fire risk and environmental values.

I undertook to report the issue to Council, as I'm doing today. I also attach an earlier email (Greg Lewis, 24 May 2016) highlighting various fire risk issues in Byron Bay.

Council's staff member on the Committee (Andy Erksine) undertook to investigate potential access routes. This could be as simple as recognizing the egress routes in particular, similar to in Uki. I hope this happens and that fire risks can be minimized through better planning.

Signed: Cr Duncan Dey

Attachments:

- 1 FRNSW concerns re Byron Bay, E2016/76369

10

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 13.1 **Review of Outstanding Council Resolutions**
Directorate: Corporate and Community Services
5 **Report Author:** Mark Arnold, Director Corporate and Community Services
File No: I2016/747
Theme: Corporate Management
 General Manager's Office

10 **Summary:**

This report provides an update on the status of Council resolutions outstanding and proposed actions, and on resolutions completed, for consideration by Council.

15 At its Ordinary Meeting on 28 August 2014 Council resolved (**14-417**) that staff conduct a review of outstanding resolutions to determine which ones currently fit within other resolutions, which ones cannot be resourced and which Council resolutions able to be closed. This report outlines resolutions according to this criteria.
20

RECOMMENDATION:

1. **That Council receive and note the information provided in this report on outstanding Council resolutions in Attachment 1 (#E2016/54837).**
2. **That Council note the completed resolutions in Attachment 2 (#E2016/54853).**
3. **That Council resolve that no further action be taken in respect of Council resolution 15-103 and that the resolution be closed.**

Attachments:

- 25
- 1 Council Resolutions outstanding as at 30 June 2016, E2016/54837
 - 2 Council Resolutions completed between 1 April and 30 June 2016, E2016/54853

Report

This report provides a quarterly update on the status of Council resolutions to 30 June 2016.

5 Council resolutions relate across all Activities in Council's Operational Plan with responsible officers within Council providing input into this status report.

The Council resolutions activity during the quarter is provided below:

- 104 Resolutions completed during period 1 April to 30 June 2016
- 110 Outstanding resolutions as at 30 June 2016

10

The outstanding Council resolutions per Council terms are provided below:

- 105 Outstanding Council resolutions current Council (2012-2016)
- 5 Outstanding Council resolution from previous Council (2008-2012)
- 110 Outstanding resolutions as at 30 June 2016

15

An update on the status of outstanding resolutions is provided at Attachment 1 which comprises:

- previous Council Oct 2008-2012 (page 3 to 6 of Attachment 1)
- current Council Sept 2012-2016 (pages 1 to 2 and 7 to 63 of Attachment 1)

20

Details of completed resolutions for the period are provided at Attachment 2. Councillors should note that since the 30 June 2016, 17 resolutions have been updated and/or closed by the Sustainable Environment and Economy directorate.

25

Council at its Ordinary meeting held on 28 August 2014 resolved (**14-417**) as follows:

3. *That staff conduct a review of outstanding resolutions to determine:*

- a) *Which ones currently fit within other resolutions*
- b) *Which ones cannot be resourced*
- c) *Report to Council resolutions able to be closed.*

30

Each Quarterly Report to Council on completed and outstanding Resolutions will include a section which will allow staff to report any other Resolutions identified during the review of outstanding Resolutions that meet the criteria determined by Council in Resolution 14-417.

35

Staff have not recommended the closure of any Council resolutions that are no longer relevant or that have been superseded either by other resolutions, legislative change or other matters.

40

Table 1 though provides a summary of Council resolutions that cannot be implemented due to resources not being available, allocated, or allocated to other adopted projects, services, activities or works. Any resulting decisions of Council will be incorporated into the next quarterly review of resolutions.

45

Table 1: Council resolutions that are not resourced

Meeting Date	Resolution No.	Report Title	Staff Comments and Recommendation
20/03/15	15-103(2)	Opposition to Base Station Microwave Transceivers	<p>Whilst Part 1 of the resolution to amend Council Policy No. 11/001 – “Telecommunication Facilities on Council Owned Land” has been completed, Part 2 of the resolution proposes that Council receive a report on amending the DCP in relation to the location of telecommunication facilities with 500m of schools and preschools. This resolution has not been resourced however this issue can be reviewed in the future housekeeping amendment of the DCP where appropriate.</p> <p>Staff Recommendation: Close resolution 15-103.</p>

Financial Implications

5

Resolution 15-103 (above) notes that resource constraints limit completion of action required. Council may consider the priority of the resolution and whether further action is still required.

Statutory and Policy Compliance Implications

10

- Council requires a quarterly report be prepared to allow it to consider the quarterly Operational Plan and Budget reviews along with a review of Council resolutions.
- Implementation of Council resolutions in accordance with the Local Government Act 1993.
- This report has been prepared in accordance with Part 3c) of Resolution 14-417.

Report No. 13.2 **Operational Plan Review 2015/16 as at 30 June 2016**
Directorate: Corporate and Community Services
Report Author: Mila Jones, Corporate Governance Coordinator
File No: I2016/766
5 **Theme:** Corporate Management
 General Manager's Office

Summary:

10 This report summarises the performance of the organisation against the adopted indicators in the Operational Plan 2015/16 for the period 1 July 2015 to 30 June 2016. The majority of key performance indicators were either met or substantially met during the reporting period.

RECOMMENDATION:

That Council receive and note the report and associated attachment (E2016/39858) on the 2015/16 Operational Plan Review for the period 1 July 2015 to 30 June 2016.

Attachments:

1 12 month Progress Report Operational Plan 2015-2016 at year ending 30 June 2016, E2016/39858

Report

5 The purpose of this report is to advise Council of the performance of the organisation against the specific measures and indicators for identified priorities in the Operational Plan for the period 1 July 2015 to 30 June 2016.

This is the 12 month report on the 2015/2016 Operational Plan and the review report is provided for the public record.

10 The 2015/2016 Operational Plan is a component of the 2013-2017 Delivery Program adopted by Council on 27 June 2013. The Council Actions detailed in Attachment 1 represent adopted actions derived from the Delivery Program, required to achieve the strategies established in the Community Strategic Plan.

15 The majority of key performance indicators were either met or substantially met during the reporting period.

Details of progress are provided in Attachment 1.

20 Financial Implications

The Council's financial performance for the period ending 30 June 2016 is addressed separately in the Quarterly Budget Review report to this meeting.

25 Statutory and Policy Compliance Implications

The General Manager is required under Section 404 (5) of the Local Government Act 1993 to provide regular progress reports as to the Council's progress with respect to the principal activities detailed in the Delivery Program. Progress reports must be provided at least every 6 months.

Report No. 13.3 **Draft Land Acquisition and Disposal Policy**
Directorate: Corporate and Community Services
Report Author: Mark Arnold, Director Corporate and Community Services
File No: I2016/711
5 **Theme:** Community Infrastructure
 Asset Management

Summary:

10 Council at its Ordinary meeting held on 16 July 2015, considered and adopted for public exhibition, draft Policy 15/006 – Disposal of Assets. No submissions were received and the draft Policy was adopted in accordance with Resolution 15-307 on 4 September 2016.

15 Policy 15/006 – Disposal of Assets covered all physical assets owned by Council except for land and buildings.

20 This report has been prepared to submit the Draft Policy – Land Acquisition and Disposal, which includes both land and buildings owned by Council, to Council for its consideration.

The draft Policy – Land Acquisition and Disposal falls within the key strategies detailed by Council in the Financial Sustainability Plans (“FSP”) adopted by Council, and will guide the future actions in the Chapter on Land Review and Property Development.

25

RECOMMENDATION:

1. **That Council adopt the draft Policy – Land Acquisition and Disposal for public exhibition and that the draft Policy be placed on public exhibition for a minimum period of 28 days.**
2. **That in the event:**
 - a) **no submissions are received on the draft Policy – Land Acquisition and Disposal, that it be adopted and incorporated into Council’s Policy Register.**

Or

 - b) **that any submissions received on the draft Policy – Land Acquisition and Disposal be reported back to Council for consideration prior to its adoption.**

Attachments:

- 30 1 Draft Policy - Land Acquisition and Disposal, E2016/29999

Report

5 Council at its Ordinary meeting held on 16 July 2015, considered and adopted for public exhibition, draft Policy 15/006 – Disposal of Assets. No submissions were received and the draft Policy was adopted in accordance with Resolution 15-307 on 4 September 2016.

Policy 15/006 – Disposal of Assets covered all physical assets owned by Council except for land and buildings.

10 This report has been prepared to submit the Draft Policy – Land Acquisition and Disposal, which includes both land and buildings owned by Council, to Council for its consideration.

15 Council has duties and obligations under a range of legislation that concerns land acquisition and disposal. This policy has been developed in order to provide the framework for a transparent process that adheres to the relevant legislation.

Its main objectives are to:

- 20 1. Ensure that Byron Shire Council has open and accountable processes to consider the acquisition and disposal of land assets.
2. Establish the criteria under which Council will consider the acquisition and sale of land and easements.

25 The draft policy applies to all acquisition and disposal of Council lands, easements, and includes interests in land.

All dealings in Council land can only be achieved through a resolution of Council.

30 The draft Policy – Land Acquisition and Disposal falls within the key strategies detailed by Council in the Financial Sustainability Plans (“FSP”) adopted by Council, and will guide the future actions in the Chapter on Land Review and Property Development.

Financial Implications

35 There are no financial implications arising from adoption of the Policy.

Statutory and Policy Compliance Implications

40 The related legislation, policies and plans are detailed in the administrative section of the Policy and in this Report.

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

Report No. 13.4 **Donations to Community Organisations, Other Groups and Persons for 2016/2017 - Section 356 Local Government Act**

Directorate: Corporate and Community Services

Report Author: Joanne McMurtry, Community Project Officer

5 **File No:** I2016/782

Theme: Society and Culture

Community Development

10 **Summary:**

In accordance with Council's Policy 3.13, advertisements for Section 356 donations were placed in Council's block advertising during June/July 2016. There are 44 recognised requests for donations (6 requests considered under Policy 14/002 Assistance for Festivals and Community Functions).

15 This report outlines the process and recommended allocations for donations with a recommendation to advertise the final allocations made by Council for the required public exhibition period.

RECOMMENDATION:

1. a) That as stated in the 2016/17 Budget the amount of \$7,000 be distributed under Policy 14/002 Assistance for Festivals and Community Functions as follows:

i) Mullum Music Festival 2016	\$ 600
ii) Byron Bay Cycle Club Inc	\$ 385
iii) Brunswick Valley Woodchop	\$ 360
iv) Mullum2Bruns Paddle 2016	\$ 600
Totals	\$1,945

- b) The applicants be advised they will be responsible for payment of any costs associated to the road closure exceeding the amount donated.

- c) The remaining \$5,055 and any moneys not expended from the above donations, be advertised as 'Round 2' under Policy 14/002 early in 2017.

2. That funds available for Section 356 donations under Policy 12/011 Donations to Community Groups – *reimbursement of Council application fees* of \$2,000 be advertised again at the same time as Round 2 of remaining funds under Policy 14/002 as described in 1c above.

3. That as stated in the 2016/17 Budget the amount of \$36,000 be distributed under Policy 3.13 Donations to Community Organisations, Other Groups and Persons as follows:

Applicant	Requested Amount \$	Recommended Amount \$
Arts/Music		
Byron Youth Theatre	5,000	3,250
TOTAL Arts/Music	5,000	3,250
Childcare/Youth Services		
Mullumbimby Community Preschool Association Inc	500	500
Rainbow Club Byron Bay	1,500	975
TOTAL Childcare/Youth Services	2,000	1,475

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.4

Animal Welfare Services		
Animal Welfare League	400	400
TOTAL Animal Welfare Services	400	400
Community Buildings/Facilities		
Byron Youth Service	1,878	1,061.45
TOTAL Community Buildings/Facilities	1,878	1,061.45
Educational/Training		
Maim Arm Upper Primary School P&C Assoc	5,000	3,250
Federal Community Children's Centre	500	500
STEER Project	8,000	5,200
TOTAL Educational/Training	13,500	8,950
Environment		
Mullumbimby SEED Inc	5,000	3,250
Bangalow Land and Rivercare Inc	1,426	926.90
Ocean Shores & District Garden Club Inc	100	100
Seaside Scavenge	1,170	760.50
TOTAL Environment	7,696	5,037.40
Events		
Carols by the Sea	800	800
Australia Indonesian Arts Alliance	5,000	3,250
Byron Community Centre	2,500	1,625
TOTAL Events	8,300	5,675
Homelessness		
Liberation Larder Inc.	7,500	4,875
S.H.I.F.T. Project Byron Inc	3,000	1,950
TOTAL Homelessness	10,500	6,825
Miscellaneous		
Waterlily Community Playscape Inc	1,004.30	1,000
TOTAL Miscellaneous	1,004.30	1,000
Recreation/Sport		
Byron Bay Cycle Club Inc	600	600
TOTAL Recreation/Sport	600	600
TOTAL DISTRIBUTION	50,878.30	34,273.85

4. That all applicants be made aware of Council's Resolution with regard to their application for a donation.
5. That Council advertise the Section 356 Donations proposed to be made.
6. That the remaining moneys (being \$1,726.15) not expended from the Section 356 donations budget be held in reserve for Council's consideration on any possible donations for unanticipated projects with valuable community benefit that may occur throughout the financial year.

- 7. That any further requests for donations under Policy 3.13 Donations to Community Organisations, Other Groups and Persons be advised that no further funding is available and they be made aware of Council's process for the following financial year's applications.**

Attachments:

- 5 1 Applications for Section 356 donations - annexure to report for Council meeting 25 August 2016, E2016/66246

Report

References:

5 The following Policies referred to in this report are available to be viewed on Council’s Web Page at <http://www.byron.nsw.gov.au/policies>

- Policy 3.13 Donations to Community Organisations, Other Groups and Persons
- Policy 14/002 Assistance for Festivals and Community Functions
- Policy 12/011 Donations to Community Groups – reimbursement of Council application fees

10 In accordance with Council’s Policy 3.13, advertisements for Section 356 donations were placed in Council’s block advertising during June/July 2016. There are 44 recognised requests for donations (6 requests considered under Policy 14/002 Assistance for Festivals and Community Functions).

15 Council’s adopted 2016/17 Budget has the following unallocated amounts which can be made under Section 356 of the LG Act 1993.

\$36,000 General S356 Donations

In accordance with Policy 3.13 Donations to Community Organisations, Other Groups and Persons

\$7,000 Assistance for festivals and community events

In accordance with Policy 14/002 Assistance for Festivals and Community Functions – donations itemised in this report.

\$2,000 Reimbursement of Council application fees

In accordance with Policy 12/011 Donations to Community Groups – reimbursement of Council application fees

30 Please note in accordance with the adopted budget the following Section 356 Donations have been allocated:

- \$1,000 (2341.23) NAIDOC Week
- \$5,000 (2341.3) Northern Region SLISA Helicopter Rescue Service
- \$5,000 (2341.7) Brunswick Valley and District Volunteer Rescue Organisation
- \$5,000 (2341.178) Brunswick Volunteer Marine Rescue
- \$3,800 (2341.29) North Coast Academy of Sport
- \$3,100 (2341.232) Tweed/ Byron Life Education Action Group

2016/17 Applications for Donation

40 The Section 356 Donations allocation process was streamlined for 2016/17 with the advertisement of donations available under the three policies called for at one time, with a single application form for all three types of application.

45 The information requested by the applicant was as follows:

- Name of community Organisation of Individual
- Are you a registered charity?
- Provide information on the structure of your Group/Organisation
- Contact Details
- Donation Amount Request
- Purpose of Donation
- Which category most suits your project eg Arts/Music, Environment, etc
- Have you made application for financial assistance from other bodies for this project
- If only part of the donation requested is granted, will the proposed project be able to proceed

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- The impact the project will have on the community or groups/persons
 - Number of proposed beneficiaries from the project or services
 - The community of interest that will benefit from the project (geographical)
 - Any other information to support the application
- 5 • Details of donations given to your Organisation by Council and/or other bodies over the last three years

10 Provided at Attachment 1 is a summary listing of all requests for donations including any request considered under Policy 14/002 Assistance for Festivals and Community Functions. In the listing, staff have made a comment on the request and a recommended donation amount to be made.

15 There are 44 recognised requests for donations (6 requests considered under Policy 14/002 Assistance for Festivals and Community Functions). Note that there were no applications made for funds available under Policy 12/011 Donations to Community Groups – reimbursement of Council application fees. A large number of applicants did not provide proof of not-for-profit or organisation status (as requested on the application form). Council contacted them and provided an opportunity to do so. One organisation contacted did not respond within the timeframe provided and therefore was not eligible under policy guidelines.

20 In arriving at the recommended amounts to distribute, staff have allocated amounts equitably on the basis of the amount requested and the benefit to the community. Staff have also considered prior decisions of Council. Any amounts requested of \$1,000 or under are recommended to be paid in full. Given the oversubscription of applications to available funds, remaining applicants that requested over \$1,000 will each receive 65% of the amount requested to align with the available funds.

25

Applications were considered by category and geographic spread, as shown in the tables below.

Category	No. of Requests	Amount requested	Amount Allocated S356	Category by allocation
Arts/Music	6	\$45,648	\$3,250	1
Childcare/Youth Services	4	\$5,800	\$1,475	2
Aged Care/Senior Services	0	0		0
Animal Welfare Services	1	\$400	\$400	1
Community Buildings/Facilities	2	\$11,878	\$1,061.45	1
Disability Services	0			0
Educational/Training	4	\$14,500	\$8,950	3
Environment	6	\$11,549.90	\$5,037.40	4
Events	5	\$16,300	\$5,675	3
Health Services	0	0		0
Homelessness	2	\$10,500	\$6,825	2
Indigenous	0			0
Miscellaneous	3	\$2,944.30	\$1,000	1

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Category	No. of Requests	Amount requested	Amount Allocated S356	Category by allocation
Recreation/Sport	5	\$44,732	\$600	1
TOTALS (\$36,000 available)	38	\$164,252.20	\$34,273.85	19
Policy 5.2 Waiving of Fees for Building and Development Applications (\$2,000 available)	0	0	0	0
*Policy 4.15 Assistance for Festivals and Community Events (\$7,000 available)	6	\$10,345	\$1,945	4
TOTAL	44		\$36,218.85	

The following information shows the applications recommended per geographical area.

Community of interest who have benefit	No. of Requests	No. allocated geographically	Amount Allocated S356
Bangalow	2	1	\$926.90
Byron Bay	6	3	\$3,446.95
Mullumbimby	5	3	\$4,150
Ocean Shores/ New Brighton	1	1	\$1,000
Rural Area/ village	3	2	\$3,750
Whole of Shire	20	9	\$21,000

5

Financial Implications

The Section 356 donations budget was adopted on 29 June 2016.

10 Statutory and Policy Compliance Implications

Section 356 of the Local Government Act states:-

- 15 **356 Can a council financially assist others?**
- (1) A council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.
- (2) A proposed recipient who acts for private gain is not ineligible to be granted financial assistance but must not receive any benefit under this section until at least 28 days' public notice of the council's proposal to pass the necessary resolution has been given.
- 20 (3) However, public notice is not required if:
- (a) the financial assistance is part of a specific program, and
- (b) the program's details have been included in the council's draft management plan for the year in which the financial assistance is proposed to be given, and
- 25 (c) the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and

(d) *the program applies uniformly to all persons within the council's area or to a significant group of persons within the area.*

(4) *Public notice is also not required if the financial assistance is part of a program of graffiti removal work.*

5

377 General power of the council to delegate

(1) *A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council, other than the following:*

10

(q) *a decision under section 356 to contribute money or otherwise grant financial assistance to persons*

Report No. 13.5 Section 355 Management Committees and Boards - Review of Guidelines and process for establishing new committees**Directorate:** Corporate and Community Services**Report Author:** Joanne McMurtry, Community Project Officer5 **File No:** I2016/794**Theme:** Society and Culture

Community Development

10 **Summary:**

This report has been prepared to inform Council of the review undertaken of the S355 Committee Structure, Guidelines and other related documents.

15

The report provides the details of the structure of Section 355 Committees and Boards awaiting appointment of new Councillor representatives following the Local Government Election on 10 September 2016.

20

As indicated above the Guidelines for Section 355 Management Committees and Boards have been reviewed, along with the Section 377 Delegation of Authority, the Terms of Reference for Section 355 Committees and Boards and the nomination form. These are presented to Council for adoption.

RECOMMENDATION:

1. **That the following Section 355 Committees and Boards of Management remain active until appointment of new membership.**
 - **Bangalow Parks (Bangalow Showground) S355 Committee**
 - **Brunswick Heads Memorial Hall S355 Committee**
 - **Brunswick Valley Community Centre S355 Committee**
 - **Byron Bay Library Exhibition Space (managing the Lone Goat Gallery) Section 355 Committee**
 - **Cook Pioneer Centre Mullumbimby S355 Committee**
 - **Durrumbul Community Hall S355 Committee**
 - **Heritage house Bangalow and Tennis Court S355 Committee**
 - **Ocean Shores Community Centre S355 Committee**
 - **South Golden Beach Community Centre S355 Committee**
 - **Suffolk Park Community Hall S355 Committee**
 - a) **That all community representatives be advised:**
 - i) **that the term of office for these committees will continue for a further 3 months after the Local Government Election (ie. to 31 December 2016);**
 - ii) **that they be officially thanked for their contribution on this committee and their management of the facility;**
 - iii) **that advertising will take place for community representation on these Section 355 Committees and they be invited to reapply.**
 - b) **That a new S355 Committee be established for the Byron Bay Senior Citizen's Hall in accordance with Resolution 16-192.**
2. **That the following Boards of Management remain active until the appointment of new membership for the following facilities.**
 - **Bangalow A&I Hall Board of Management**

- **Mullumbimby Civic Memorial Hall Board of Management**
 - a) **That the Community Representatives be advised:**
 - i) **that the term of office for these committees will continue for a further 3 months after the Local Government Election (ie. to 31 December 2016);**
 - ii) **that they be officially thanked for their contribution on this committee and their management of the facility;**
 - iii) **that advertising will take place for community representation on these Section 355 Boards of Management and they be invited to reapply.**
 - b) **That the Byron Bay Library Exhibition Space (managing the Lone Goat Gallery) Section 355 Management Committee become a Board of Management with the new name being: Lone Goat Gallery Section 355 Board of Management effective from 1 January 2017.**
- 3. **That Council accept the resignations from Prue Regan and Turiya Bruce on the Byron Bay Library Exhibition Space (Lone Goat Gallery) Section 355 Management Committee and officially thank them for their contribution on this committee.**
- 4. **That Council accept the resignations from Jacqueline Walsh and Kathy Norley on the South Golden Beach Community Hall Section 355 Management Committee and officially thank them for their contribution on this committee, and that Zerina Millard be appointed to the committee for a short-term period to the end of the existing committee's term.**
- 5. **That the new Council receive a report appointing Councillor representatives on the Section 355 Committees / Boards of Management stated in 1 and 2 above.**
- 6. **That the attached draft reviewed Guidelines for Section 355 Management Committees and Boards be adopted.**
- 7. **That the reviewed Section 377 Delegation of Authority, including the increased financial delegation to \$5,000 per committee, be adopted.**
- 8. **That the revised Section 355 Management Committee and Board Terms of Reference be adopted.**
- 9. **That advertising and recruitment (Call for Nominations) for the new Section 355 Management Committees and Boards be commenced following the Council elections on 10 September, using the revised Committee/ Board Nomination form.**

Attachments:

- 1 Section 355 Management Committee Guidelines - review document, E2016/53594
- 5 2 Section 355 Management Committee Delegation of Authority template - reviewed by Legal Services July 2016, E2016/66109
- 3 Section 355 Management Committee and Terms of Reference 2016, E2016/68163
- 4 Nomination Form - Seciton 355 Management Committee or Board, E2016/68197

10

Review of Section 355 Management Committee and Board Guidelines

The term of office for all S355 Committees is the same as the term of the current Council. With the local government election being held on 10th September, staff have used the opportunity of the change of committees to review the Section 355 Management Committee and Board Guidelines. The Guidelines were last reviewed in 2012.

The review of the Guidelines has included the following:

- A workshop with existing Section 355 Management Committee members on 25th July 2016.
- Extensive consultation with staff to ensure information was up-to-date and accurate, including maintenance procedures, procurement procedures, accounts procedures, insurance information, meeting procedures and governance.
- Consultation with customer service and around improved marketing and promotion of halls and facilities.
- A review of Section 377 delegations by Council's Legal Services team.

The main areas where changes have been made to the old Guidelines include:

1. Having one Guidelines document for both Management Committees and Boards.
2. Clarifying the quorum with the ideal size of a committee being between 5 and 9 members (except Bangalow Parks/ Showground).
3. Appointing a skills based committee where all community Management Committee members will be assessed against a set of criteria and appointed by Council. This includes all office bearers being computer literate and able to be contacted by email. The selection criteria are:
 - Have established ties to the Byron Shire community, and
 - Experience (professional, amateur, volunteer) working in either; venue management, event management, conference organising, music promotion, theatre production, design, marketing, or related technical areas such as accounting, managing people or business, community services or groups or fundraising.
4. Providing clarity around procurement and engaging contractors.
5. Providing clarity around what constitutes minor maintenance (committee responsibility) and major improvements (Council responsibility).
6. Refining the honorarium payments to committee members
7. Providing information about Council's Volunteer Policy and procedures
8. Providing information about marketing and promotion, including Council's Social Media Policy.
9. Provision of inclusion as required by the Disability Inclusion Act 2014.
10. Increasing the bank float for committees to \$5,000 and committee delegations to \$5,000.
11. Requiring accounts to be kept electronically and treasurers being computer literate to utilise accounting software or excel spreadsheets and do most banking via the internet. (Council are investigating the use of MYOB online tools, currently used by some Halls, which would make the Treasurer's job much easier than it currently is).

12. Encouraging booking systems that use a calendar that can be viewed by multiple people. Council are currently looking into online systems and software that can make the bookings officer job much easier than it currently is.

5

13. The templates will be updated, including providing a suite of tools for Treasurers to keep electronic accounts.

The purpose of the Guidelines is to be used as a reference document. It has been identified that Section 355 Management Committees will benefit from more regular training in areas of need, and more networking to discuss what works and what doesn't work for different halls and committees. The committee members that attended the consultation workshop on the 25th July certainly found the opportunity to share ideas useful.

10

15 Section 355 Management Committees – continuation

Under the LG Act 1993 Section 355 Council is able to delegate some of its functions to a committee of Council. The term of office for the Section 355 Management Committees the same term as the current Council, with the addition of an extra three months after the General Election of Councillors (refer adopted Guidelines). Below is a list of the current Section 355 Management Committees and Boards.

20

Section 355 Management Committees	Responsible Officer	Crs rep(s) 2002/2016	Committee update	Recommendation to Council
Bangalow Parks (Bangalow Showground) S355 Management Ctee	Mark Arnold	Ibrahim <i>Alt Richardson</i>	These facilities are managed by Section 355 Management Committees.	That Council write to Section 355 Members advising: <ul style="list-style-type: none"> that their term of office is the same term as the current Council with the addition of three months (ie end Dec 2016) they officially be thanked for their contribution on this Committee. that advertising will take place for new Committee Members and they be invited to reapply for commencement in December 2016/January 2017.
Brunswick Heads Memorial Hall S355 Management Ctee	Mark Arnold	Cameron		
Brunswick Valley Community Centre S355 Management Ctee	Mark Arnold	Dey		
Cook Pioneer Centre Mullumbimby	Mark Arnold	Hunter <i>Alt Dey</i>		
Durrumbul Community Hall S355 Management Committee	Mark Arnold	Dey		
Heritage House Bangalow and Tennis Court S355 Management Committee	Mark Arnold	Cameron <i>Alt Ibrahim</i>		
Ocean Shores Community Centre S355 Management Committee	Mark Arnold	Cubis <i>Alt Dey</i>		

Section 355 Management Committees	Responsible Officer	Crs rep(s) 2002/2016	Committee update	Recommendation to Council
South Golden Beach Community Centre S355 Management Committee	Mark Arnold	Cameron <i>Alt Richardson</i>		
Suffolk Park Community Hall S355 Management Committee	Mark Arnold	Wanchap		
Bangalow A&I Hall Board of Management	Mark Arnold	Cameron <i>Alt Ibrahim Alt Cubis</i>	These facilities are managed each by a venue Coordinator who reports to the Board of Management.	That Council write to Boards of Management advising: <ul style="list-style-type: none"> • that their term of office is the same term as the current Council with the addition of three months (ie end Dec 2016) • they officially be thanked for their contribution on this Committee. • that advertising will take place for new Board Members and they be invited to reapply for commencement in December 2016/January 2017..
Mullumbimby Civic Memorial Hall Board of Management	Mark Arnold	Dey Richardson		

Byron Bay Library Exhibition Space (Lone Goat Gallery) Section 355 Management Committee

5 Council has received resignations from Prue Regan and Turiya Bruce from the Byron Bay Library Exhibition Space (Lone Goat Gallery) Section 355 Management Committee.

Current Membership now on the Committee is as follows:-

10 Councillor Representative(s):

- Cr Alan Hunter

15 Community Representatives:

- Margaret White, *Chairperson*
- Jay Pearse, *Vice Chairperson*
- Maureen Lightfoot, *Secretary/ Co-Treasurer*
- Howard Sedgmen, *Co-Treasurer*
- 20 ▪ Helene Sheean, *Curator*

Staff Comment: It has been recommended that the resignations from Prue Regan and Turiya Bruce be received and they be officially thanked for their contribution on this Committee.

25 With the approval by Council of the employment of a part-time Gallery Coordinator for a period of twelve months (resolution **16-348**), the Byron Bay Library Exhibition Space (Lone Goat Gallery) Section 355 Management Committee will become a Board of Management. It is suggested that this opportunity be used to change the name of the committee to:

30 *Lone Goat Gallery Section 355 Board of Management*

Byron Bay Senior Citizen's Hall Section 355 Management Committee

5 A new Section 355 Management Committee will be established as per resolution **16-192** for the Byron Bay Senior Citizen's Hall.

1. *That Council approves the formation of a Section 355 Committee to manage the operation and maintenance of the Senior Citizen's Hall, Byron Bay.*
- 10 2. *That Council advertise for Expressions of Interest from the community to form the Section 355 Committee.*
3. *That the Section 355 Committee be delegated the authority to:*
 - 15 a) *Manage the operation and maintenance of the Senior Citizen's Hall, Byron Bay*
 - b) *To collect income and incur expenditure, within approved budget allocations and Council policies and procedures, for the maintenance and operation of the building*

20

South Golden Beach Community Hall Section 355 Management Committee

25 Council has received resignations from Jacqueline Walsh and Kathy Norley from the South Golden Beach Community Hall Section 355 Management Committee.

25

Current Membership now on the Committee is as follows:-

Councillor Representative(s):

- 30
 - Cr Basil Cameron
 - Mayor Simon Richardson (*alternate delegate*)

Community Representatives:

- 35
 - Angela Dunlop, *President/ Bookings Officer*
 - Robyn Quinn, *Secretary*
 - Michele Clark, *Treasurer*

40 Staff Comment: It has been recommended that the resignations from Jacqueline Walsh and Kathy Norley be received and they be officially thanked for their contribution on this Committee. One new nomination has been received from Zerina Millard to replace outgoing committee members. As new nominations for Section 355 Management Committee members will be called in September, it is recommended that Zerina Millard be appointed for a short-term period to the end of the existing committee's term.

45

Financial Implications

Community representation on Council committees are volunteer positions and have no impact on Council's Budget.

50 **Statutory and Policy Compliance Implications**

Section 355 Management Committees operate under Section 355 Committee Guidelines and the reviewed Guidelines will be made available on Council's web site at <http://www.byron.nsw.gov.au/section-355-committees>

Report No. 13.6 **Council Budget Review - 1 April 2016 to 30 June 2016**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2016/797
5 **Theme:** Corporate Management
 Financial Services

Summary:

10 This report is prepared in accordance with the format required by Clause 203 of the Local Government (General) Regulation 2005 to inform Council and the Community of Council's estimated financial position for the 2015/2016 financial year, reviewed as at 30 June 2016.

15 The Quarterly Budget Review for the June 2016 Quarter has been prepared by staff even though it is not statutory requirement to assist Council with its Policy and decision making on matters that could have short, medium and long term implications on Councils financial sustainability.

20 This report contains an overview of the proposed budget variations for the General Fund, Water Fund and Sewerage Fund. The specific details of these proposed variations are included in Attachments 1 and 2 for Council's consideration and authorisation.

25 Attachment 3 contains the Integrated Planning and Reporting Framework (IP&R) Quarterly Budget Review Statement (QBRs) as outlined by the Division of Local Government in Circular 10-32.

30 The report also provides an indication of the financial position of the Council at 30 June 2016. It should be noted that the figures provided are subject to completion and audit of the Council's Financial Statements for 2015/2016. Any major variances to the estimated financial position for the 2015/2016 financial year will be included as part of the report adopting the financial statements during October 2016.

RECOMMENDATION:

1. **That Council authorises the itemised budget variations as shown in Attachment 2 (#E2016/74510) which includes the following results in the 30 June 2016 Quarterly Review of the 2015/2016 Budget:**
 - a) **General Fund - \$0 increase in accumulated surplus/working funds**
 - b) **General Fund - \$9,096,400 increase in reserves**
 - c) **Water Fund - \$1,959,600 increase in reserves.**
 - d) **Sewerage Fund - \$643,300 increase in reserves**
2. **That Council adopt the revised estimated General Fund Accumulated Surplus/ (Working Funds) surplus of \$919,100 for the 2015/2016 financial year as at 30 June 2016.**
3. **That Council further allocate \$2,163,000 to internal reserve funds as indicated in this report under the heading 'Specific Cash Position'.**

Attachments:

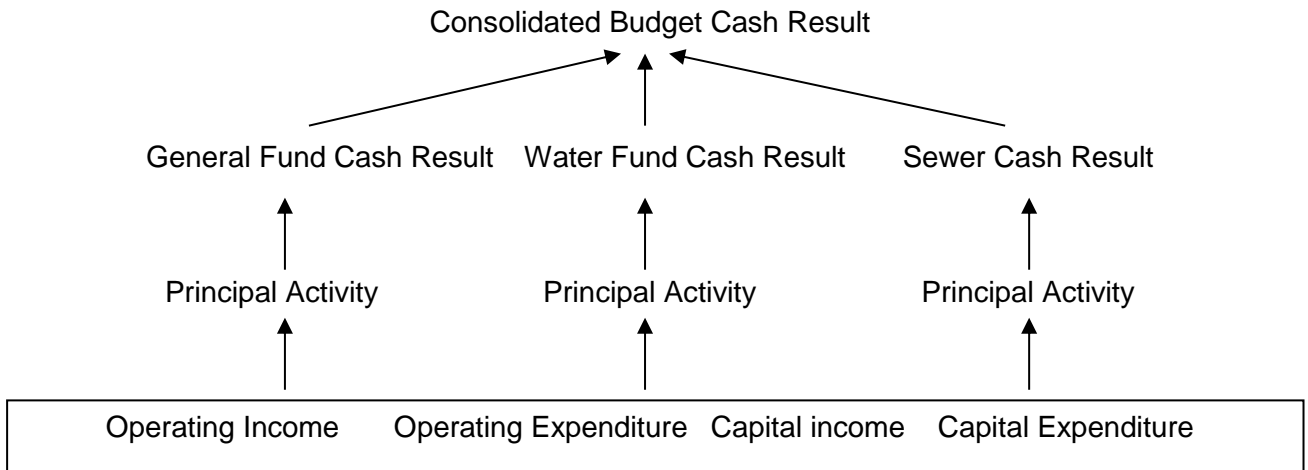
- 35
- 1 Itemised Listing of Budget Variations for General, Water and Sewerage Funds, E2016/74510
 - 2 Budget Variations for General, Water and Sewerage Funds, E2016/74504
 - 3 Integrated Planning and Reporting Framework (IP&R) required Quarterly Review Statement, E2016/74511
- 40

Report

5 Council adopted the 2015/2016 budget on 25 June 2015 via Resolution **15-293**. It also considered and adopted the budget carryovers from the 2014/2015 financial year, to be incorporated into the 2015/2016 budget, at its Ordinary Meeting held 27 August 2015 via Resolution **15-386**. Since that date, Council has reviewed the budget taking into consideration the 2014/2015 Financial Statement results and progress through the first three quarters of the 2015/2016 financial year.
 10 This report considers the June 2016 Quarter Budget Review.

The details of the budget review for the Consolidated, General, Water and Sewer Funds are included in Attachment 1, with an itemised listing in Attachment 2. This aims to show the consolidated budget position of Council, as well as a breakdown by Fund and Principal Activity.
 15 The document in Attachment 1 is also effectively a publication outlining a review of the budget and is intended to provide Councillors with more detailed information to assist with decision making regarding Council's finances.

20 Contained in the document at attachment 1 is the following reporting hierarchy:



35 The pages within Attachment 1 are presented (from left to right) by showing the original budget as adopted by Council on 25 June 2015 plus the adopted carryover budgets from 2014/2015 followed by the resolutions between July and September, the September review, resolutions between
 40 October and December, the December review, resolutions between January and March, the March review, resolutions between April and June and the revote (or adjustment for this review) and then the revised position projected for 30 June 2016.

45 On the far right of the Principal Activity, there is a column titled "Note". If this is populated by a number, it means that there has been an adjustment in the quarterly review. This number then corresponds to the notes at the end of the Attachment 1 which provides an explanation of the variation.

50 There is also information detailing restricted assets (reserves) to show Council estimated balances as at 30 June 2016 for all Council's reserves.

A summary of Capital Works is also included by Fund and Principal Activity.

Division of Local Government Budget Review Guidelines:-

The Division of Local Government on 10 December 2010 issued the new Quarterly Budget Review Guidelines via Circular 10-32, with the reporting requirements to apply from 1 July 2011. This report includes a Quarterly Budget Review Statement (refer Attachment 3) prepared by Council in accordance with the guidelines.

The Quarterly Budget Review Guidelines set a minimum standard of disclosure, with these standards being included in the Local Government Code of Accounting Practice and Financial Reporting as mandatory requirements for Council's to address.

Since the introduction of the new planning and reporting framework for NSW Local Government, it is now a requirement for Councils to provide the following components when submitting a Quarterly Budget Review Statement (QBR):-

- A signed statement by the Responsible Accounting Officer on Councils financial position at the end of the year based on the information in the QBR
- Budget review income and expenses statement in one of the following formats:
 - Consolidated
 - By fund (e.g General, Water, Sewer)
 - By function, activity, program etc to align with the management plan/operational plan
- Budget Review Capital Budget
- Budget Review Cash and Investments Position
- Budget Review Key performance indicators
- Budget Review Contracts and Other Expenses

The above components are included in Annexure 5(c):-

Income and Expenditure Budget Review Statement by Type – This shows Councils income and Expenditure by type. This has been split by Fund. Adjustments are shown, looking from left to right.

Capital Budget Review Statement – This statement identifies in summary Council's capital works program on a consolidated basis and then split by Fund. It also identifies how the capital works program is funded.

Cash and Investments Budget Review Statement – This statement reconciles Council's restricted funds (reserves) against available cash and investments. Council has attempted to indicate an actual position as at 30 June 2016 of each reserve to show a total cash position of reserves with any difference between that position and total cash and investments held as available cash and investments. It should be recognised that the figure is at a point in time and may vary in future quarterly reviews pending on cash flow movements.

Key Performance Indicators (KPI's) – Council is currently developing a series of KPI's to be built into the Long Term Financial Plan (LTFP currently under review). At this stage, the KPI's within in this report are:-

- **Debt Service Ratio** - This assesses the impact of loan principal and interest repayments on the discretionary revenue of Council.
- **Rates and Annual Charges Outstanding Ratio** – This assesses the impact of uncollected rates and annual charges on Councils liquidity and the adequacy of recovery efforts.
- **Asset Renewals Ratio** – This assesses the rate at which assets are being renewed relative to the rate at which they are depreciating.

These may be expanded in future to accommodate any additional KPIs that Council may adopt to use in the Long Term Financial Plan (LTFP.)

Contracts and Other Expenses - This report highlights any contracts Council entered into during the April to June quarter that are greater than \$50,000.

CONSOLIDATED RESULT

The following table provides a summary of the overall Council budget on a consolidated basis inclusive of all Funds budget movements for the 2015/2016 financial year projected to 30 June 2016.

2015/2016 Budget Review Statement as at 30 June 2016	Original Estimate (Including Carryovers) 1/7/2015	Adjustments to June 2016 including Resolutions	Proposed June 2016 Review Revotes	Revised Estimate 30/6/2016
Operating Revenue	72,162,100	2,487,800	1,453,400	76,103,300
Operating Expenditure	78,507,400	465,500	(3,724,700)	75,248,200
Operating Result – Surplus/Deficit	(6,345,300)	2,022,300	5,178,100	855,100
Add: Capital Revenue	10,726,000	53,300	1,773,600	12,552,900
Change in Net Assets	4,380,700	2,075,600	6,951,700	13,408,000
Add: Non Cash Expenses	14,586,500	(2,071,400)	0	12,515,100
Add: Non-Operating Funds Employed	4,100,000	127,700	0	4,227,700
Subtract: Funds Deployed for Non-Operating Purposes	(43,048,100)	12,519,400	4,747,600	(25,781,100)
Cash Surplus/(Deficit)	(19,980,900)	12,651,300	11,699,300	4,369,700
Restricted Funds – Increase / (Decrease)	(19,980,900)	12,651,300	11,699,300	4,369,700
Forecast Result for the Year – Surplus/(Deficit) – Working Funds	0	0	0	0

As the table above highlights, the forecast result for the year has not changed during the review period including Council resolutions. Results by General, Water and Sewerage Fund are provided below:

GENERAL FUND

In terms of the General Fund projected Accumulated Surplus (Working Funds) the following table provides a reconciliation to the estimated position as at 30 June 2016:

5

Opening Balance – 1 July 2015	\$919,100
Plus original budget movement and carryovers	0
Council Resolutions July – September Quarter	0
September Review Adjustments – increase/(decrease)	0
Council Resolutions October – December Quarter	0
December Review Adjustments – increase/(decrease)	0
Council Resolutions January – March Quarter	0
Recommendations within this Review – increase/(decrease)	0
Council Resolutions April – June Quarter	0
Recommendations within this Review – increase/(decrease)	0
Forecast Working Funds Result – Surplus/(Deficit) – 30 June 2016	0
Estimated Working Funds Closing Balance – 30 June 2016	919,100

Council Resolutions

10 There were no Council resolutions during the April 2016 to June 2016 quarter that impacted the 2015/2016 budget result.

Budget Adjustments

15 A summary of the budget adjustments identified in Attachment 1 and 2 for the General Fund has been summarised by Budget Directorate in the following table:

	Revenue Increase/ (Decrease) \$	Expenditure Increase/ (Decrease) \$	Accumulated Surplus (Working Funds) Increase/ (Decrease) \$
Budget Directorate			
Organisation Development	0	0	0
Corporate & Community Services	608,600	637,200	(28,600)
Infrastructure Services	(2,513,700)	(2,652,700)	139,000
Sustainable Environment & Economy	373,900	484,300	(110,400)
Total Budget Movements	(1,531,200)	(1,531,200)	0

Budget Adjustment Comments

20 Within each of the Directorates of the General Fund, are a series of proposed budget adjustments identified in detail at attachments 1 and 2. More detailed notes on these are provided in Attachment 1, but in summary the major items included are summarised below by Directorate and are included in the overall budget result presented in the budget adjustments table above with the majority of budget revotes proposed to reflect actual results achieved:

25

The major consideration with this budget review is the reduction in expenditure associated with projects not completed and under expenditure. Council will also be considering a report to this same Ordinary Council Meeting regarding carryover items from the 2015/2016 financial year not

completed to be added to the 2016/2017 Budget Estimates. This report also considers the implications of that report.

5 As a consequence of these revisions, there is a significant proposed increase to Council's restricted funds given the cash position overall for the financial year ended 30 June 2016 increased significantly compared to the anticipated reduction in cash expected. Council was expecting to see a reduction of \$19.981 million in its cash position for the 2015/2016 financial year as per the original adopted budget estimates, however current indications are that the June 2016 Quarter Budget Review in conjunction with previous Quarterly Budget Reviews is requiring a \$4.370 million transfer back to reserve funds.

Specific Cash Position

15 Upon reconciling Council's total cash and investment position at 30 June 2016 compared to the reserve movements outlined in this Budget Review, there is an indication that Council will have total unrestricted cash and investments of \$3,305,600. Council commenced the 2015/2016 financial year with unrestricted cash of \$1,142,600 which was an attainment of one of Council's short term financial goals. If Council chooses to maintain this balance at 30 June 2016, it therefore indicates there is a further \$2,163,000 that could be allocated to reserve in addition to the movement contained in the Budget Review. In that regard it is suggested that Council allocate the funds as follows:

- \$1,643,000 to the Infrastructure Renewal Reserve including \$1,000,000 that can be allocated to Bridge replacement works.
- 25 • \$100,000 to the Information Technology Reserve to provide funding for Council to implement the Unified Communication Project relating to the replacement of Council's phone system that has been in place for over twenty years to enable newer technology and provide improved customer service.
- 30 • \$200,000 to the Infrastructure Services Carryover Reserve to provide funding for Council to develop and implement its next set of Integrated Planning Documents including Community Strategic Plan and the required community consultation in terms of Council addressing its infrastructure issues along with having a conversation regarding funding for future works.
- \$20,000 to the General Manager Office Reserve to assist in the scoping of projects.
- 35 • \$200,000 to the property development reserve to further assist Council with property rationalisation in accordance with the Financial Sustainability Plan (FSP).

The actual amounts that will be eventually allocated will be contingent upon finalisation of the 2015/2016 financial statements yet to be finalised and subject to external audit.

40 WATER FUND

After completion of the 2014/2015 Financial Statements the Accumulated Surplus (Working Fund) balance for the Water Fund, as at 30 June 2015, is \$1,968,400 with capital works reserves of \$2,577,900. It also held \$10,817,600 in section 64 developer contributions at this time.

45 The estimated Water Fund reserve balances as at 30 June 2016 are derived as follows:

Opening Reserve Balance at 1 July 2015	\$2,577,900
Plus original budget reserve movement	1,130,200
Less reserve funded carryovers from 2014/2015	(1,939,800)
Resolutions July - September Quarter – increase / (decrease)	(2,200)
September Quarterly Review Adjustments – increase / (decrease)	21,300
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	211,400
Resolutions January - March Quarter – increase / (decrease)	0

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March Quarterly Review Adjustments – increase / (decrease)	20,000
Resolutions April to June Quarter – increase / (decrease)	(33,000)
June Quarterly Review Adjustments – increase / (decrease)	824,600
Forecast Reserve Movement for 2015/2016 – Increase / (Decrease)	232,500
Estimated Reserve Balance at 30 June 2016	\$2,810,400

Section 64 Developer Contributions

Opening Reserve Balance at 1 July 2015	\$10,817,600
Plus original budget reserve movement	(3,779,000)
Less reserve funded carryovers from 2014/2015	(226,500)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	6,000
Resolutions October - December Quarter – increase / (decrease)	(500,000)
December Quarterly Review Adjustments – increase / (decrease)	1,000,000
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	2,096,000
Resolutions April – June Quarter – increase / (decrease)	0
June Quarterly Review Adjustments – increase / (decrease)	1,135,000
Forecast Reserve Movement for 2015/2016 – Increase / (Decrease)	(268,500)
Estimated Reserve Balance at 30 June 2016	\$10,549,100

5 Movements for Water Fund can be seen in Attachment 1, with a proposed estimated increase to reserves (including S64 Contributions) overall of \$1,959,600 from this review.

SEWERAGE FUND

10 After completion of the 2014/2015 Financial Statements the Accumulated Surplus (Working Fund) balance for the Sewer Fund, as at 30 June 2015, was \$1,776,500 with capital works reserves of \$4,681,300 and plant reserve of \$785,100. It also held \$6,228,000 in section 64 developer contributions.

15 The estimated Sewerage Fund reserve balances as at 30 June 2016 are derived as follows:

Capital Works Reserve

Opening Reserve Balance at 1 July 2015	\$4,681,300
Plus original budget reserve movement	1,189,700
Less reserve funded carryovers from 2014/2015	(125,500)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	(3,900)
Resolutions October - December Quarter – increase / (decrease)	0
December Quarterly Review Adjustments – increase / (decrease)	(1,106,800)
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	640,000
Resolutions April - June Quarter – increase / (decrease)	0
June Quarterly Review Adjustments – increase / (decrease)	(124,800)
Forecast Reserve Movement for 2015/2016 – Increase / (Decrease)	468,700
Estimated Reserve Balance at 30 June 2016	\$5,150,000

20 Plant Reserve

Opening Reserve Balance at 1 July 2015	\$785,100
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Plus original budget reserve movement	0
Less reserve funded carryovers from 2014/2015	0
Reserve movements from September Quarter – increase / (decrease)	0
Reserve movements from December Quarter – increase / (decrease)	0
Reserve movements from March Quarter – increase / (decrease)	0
Reserve movements from June Quarter – increase / (decrease)	42,700
Forecast Reserve Movement for 2015/2016 – Increase / (Decrease)	42,700
Estimated Reserve Balance at 30 June 2016	\$827,800

Section 64 Developer Contributions

Opening Reserve Balance at 1 July 2015	\$6,228,000
Plus original budget reserve movement	(1,853,600)
Less reserve funded carryovers from 2014/2015	(1,803,500)
Resolutions July - September Quarter – increase / (decrease)	0
September Quarterly Review Adjustments – increase / (decrease)	0
Resolutions October - December Quarter – increase / (decrease)	(500,000)
December Quarterly Review Adjustments – increase / (decrease)	1,810,000
Resolutions January - March Quarter – increase / (decrease)	0
March Quarterly Review Adjustments – increase / (decrease)	4,154,100
Resolutions April – June Quarter – increase / (decrease)	0
June Quarterly Review Adjustments – increase / (decrease)	725,300
Forecast Reserve Movement for 2015/2016 – Increase / (Decrease)	2,532,300
Estimated Reserve Balance at 30 June 2016	\$8,760,300

- 5 Movements for the Sewerage Fund can be seen in Attachment 1, with a proposed estimated decrease to reserves (including S64 Contributions) overall of \$356,800 from this review.

Legal Expenses

- 10 One of the major financial concerns for Council over previous years was legal expenses. Not only does this item represent a drain on rate income, but it is also susceptible to large fluctuations and needs to be continually monitored.

- 15 The table that follows indicates the allocated budget and actual legal expenditure within Council on a fund basis.

Total Estimated Legal Income & Expenditure as at 30 June 2016

Program	2015/2016 Budget (\$)	Actual (\$)	Percentage To Revised Budget
Income			
Legal Expenses Recovered	0	6,200	0%
Total Income	0	6,200	0%
Expenditure			
General Legal Expenses	200,000	230,168	115%
Total Expenditure General Fund	200,000	230,168	115%

- 20 The current status of the Legal Services Reserve is shown below:

Legal Reserve

Opening Reserve Balance at 1 July 2015	\$779,100
Less Belongil Bridge Pile Repairs (44217 - Original Budget)	(1,803)
Less Road Reconstruction Works (Various – Original Budget)	(61,000)
Legal Expenses above allocated budget	(23,968)
Estimated Reserve Balance at as at 30 June 2016	\$692,329

Financial Implications

- 5 The 30 June 2016 Quarter Budget Review of the 2015/2016 Budget Estimates has maintained the expected estimated budget attributable to the General Fund of \$0 assuming all revotes of income and expenditure for Council's consideration are approved. Overall, the short term financial position of Council still needs to be carefully monitored on an ongoing basis. However having said that, it is
- 10 estimated that the General Fund Accumulated Surplus (Working Funds) result of \$919,100 is slightly less than the adopted General Fund Accumulated Surplus (Working Funds) target of \$1,000,000 for the General Fund. Maintaining this result through the financial year is a further achievement for Council.
- 15 It is expected also given the level of reserve funds compared to total cash and investments at 30 June 2016, Council is likely to have an unrestricted cash balance currently estimated at \$1,142,600. This is another further achievement for Council maintaining this result throughout the financial year.
- 20 Notwithstanding that Council has maintained during the year both of its short term funding liquidity goals, these goals are more about liquidity. Council certainly still has bigger issues in the longer term regarding its financial sustainability such as the provision of adequate funding for the maintenance and renewal of infrastructure assets. These issues are certainly the focus of the 'Fit for the Future' program that the NSW Government has issued to Councils in NSW.
- 25 The outcomes associated with this Budget Review need to be considered in context that they are indicative financial outcomes for the 2015/2016 financial year. Council is yet to finalise its financial statements for the year ended 30 June 2016 which will be subject to external independent audit.
- 30 It is expected that Council will receive a report to adopt its financial statements for the year ended 30 June 2016 at its Ordinary Meeting to be held on 27 October 2016 where the final financial results for the year will be presented.
- 35 This report was also considered by the Finance Advisory Committee at its meeting held on 18 August 2016.

Statutory and Policy Compliance Implications

- 40 In accordance with Clause 203 of the Local Government (General) Regulation 2005 the Responsible Accounting Officer of a Council must:-
- 45 *(1) Not later than 2 months after the end of each quarter (except the June quarter), the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the statement of the council's revenue policy included in the operational plan for the relevant year, a revised estimate of the income and expenditure for that year.*
- (2) A budget review statement must include or be accompanied by:*

(a) a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and

5 *(b) if that position is unsatisfactory, recommendations for remedial action.*

(3) A budget review statement must also include any information required by the Code to be included in such a statement.

10 **Statement by Responsible Accounting Officer**

This report indicates that the short term financial position of the Council is satisfactory for the 2015/2016 financial year, having consideration of the original estimate of income and expenditure at the 30 June 2016 Quarter Budget Review.

15 This opinion is based on the estimated General Fund Accumulated Surplus (Working Funds) position and the expected improvement of that position by the current indicative budget of \$0 for 2015/2016.

Report No. 13.7 **Investments July 2016**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2016/799
5 **Theme:** Corporate Management
 Financial Services

Summary:

10 This report includes a list of investments and identifies Council's overall cash position for the month of July 2016 for Council's information.

15 This report is prepared to comply with Regulation 212 of the Local Government (General) Regulation 2005.

RECOMMENDATION:

20 **That the report listing Council's investments and overall cash position as at 31 July 2016 be noted.**

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Report

5 In relation to the investment portfolio for July 2016, Council has continued to maintain a diversified portfolio of investments. At 31 July 2016, the average 90 day bank bill rate (BBSW) for the month of July was 1.93%. Council's performance to 31 July is approximately 2.96%. Councils' performance is again higher than the benchmark. This is largely due to the active ongoing management of the investment portfolio, maximising investment returns through secure term deposits

10 The table below identifies the investments held by Council as at 31 July 2016:

Schedule of Investments held as at 31 July 2016

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Type	Interest Rate Per Annum	Current Value
20/06/12	500,000	HERITAGE BANK LTD BONDS	N	BBB+	20/06/17	B	7.25%	520,000.00
03/06/16	1,000,000	WESTPAC CLIMATE BOND	N	AA-	03/06/21	FRN	3.16%	1,000,080.00
08/07/16	2,000,000	NAB	P	AA-	07/10/16	TD	2.92%	2,000,000.00
06/06/16	2,000,000	NAB	N	AA-	04/10/16	TD	2.96%	2,000,000.00
04/04/16	2,000,000	NAB	N	AA-	04/08/16	TD	3.10%	2,000,000.00
06/07/16	2,000,000	BANKWEST	P	A1+	05/09/16	TD	2.80%	2,000,000.00
12/05/16	2,000,000	NAB	N	AA-	12/09/16	TD	2.99%	2,000,000.00
23/05/16	2,000,000	NAB	N	AA-	23/11/16	TD	2.98%	2,000,000.00
05/04/16	2,000,000	SUNCORP	P	A+	03/08/16	TD	3.05%	2,000,000.00
02/06/16	2,000,000	NAB	N	AA-	30/09/16	TD	2.96%	2,000,000.00
02/05/16	2,000,000	NAB	N	AA-	02/09/16	TD	3.08%	2,000,000.00
14/07/16	1,000,000	NAB	N	AA-	12/10/16	TD	2.91%	1,000,000.00
06/06/16	1,000,000	NAB	N	AA-	04/10/16	TD	2.96%	1,000,000.00
09/05/16	1,000,000	NAB	N	AA-	08/08/16	TD	2.98%	1,000,000.00
06/06/16	2,000,000	NAB	N	AA-	05/09/16	TD	2.93%	2,000,000.00
04/07/16	3,000,000	ME BANK	P	BBB	04/10/16	TD	2.88%	3,000,000.00
05/05/16	2,000,000	NAB	N	AA-	05/09/16	TD	3.01%	2,000,000.00
19/05/16	2,000,000	NAB	N	AA-	19/08/16	TD	2.95%	2,000,000.00
26/05/16	2,000,000	NAB	N	AA-	25/08/16	TD	3.02%	2,000,000.00
29/02/16	2,000,000	AMP BANK	P	A	29/08/16	TD	3.00%	2,000,000.00
02/06/16	2,000,000	NAB	N	AA-	01/09/16	TD	2.94%	2,000,000.00
04/07/16	2,000,000	NAB	N	AA-	03/01/17	TD	2.97%	2,000,000.00
07/07/16	2,000,000	BANK OF QUEENSLAND	P	A2	05/01/17	TD	2.95%	2,000,000.00
01/02/16	2,000,000	POLICE CREDIT UNION	P	NR	01/08/16	TD	3.10%	2,000,000.00
06/06/16	2,000,000	ME BANK	N	BBB	06/09/16	TD	2.95%	2,000,000.00
09/05/16	1,000,000	NEWCASTLE PERMANENT	P	BBB+	08/08/16	TD	2.85%	1,000,000.00
01/06/16	2,000,000	BEYOND BANK	P	A2	01/09/16	TD	3.00%	2,000,000.00
01/06/16	2,000,000	SUNCORP	N	A1	29/09/16	TD	2.85%	2,000,000.00

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Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Type	Interest Rate Per Annum	Current Value
05/05/16	2,000,000	BEYOND BANK	N	A2	03/08/16	TD	3.10%	2,000,000.00
10/05/16	2,000,000	ME BANK	N	BBB	07/09/16	TD	2.95%	2,000,000.00
10/05/16	2,000,000	ME BANK	N	BBB	08/08/16	TD	2.95%	2,000,000.00
13/05/16	2,000,000	ME BANK	N	BBB	11/08/16	TD	2.90%	2,000,000.00
17/05/16	2,000,000	ME BANK	N	BBB	16/08/16	TD	2.90%	2,000,000.00
23/05/16	1,000,000	POLICE CREDIT UNION	N	NR	23/09/16	TD	2.95%	1,000,000.00
02/06/16	2,000,000	BEYOND BANK	N	A2	31/08/16	TD	2.90%	2,000,000.00
04/07/16	3,000,000	BANK OF QUEENSLAND	N	A2	04/01/17	TD	2.95%	3,000,000.00
04/07/16	2,000,000	COMMUNITY ALLIANCE CU	P	NR	04/10/16	TD	3.10%	2,000,000.00
04/07/16	1,000,000	BANANACOAST CU	P	NR	04/01/17	TD	2.95%	1,000,000.00
06/07/16	2,000,000	QUEENSLAND COUNTRY CU	P	NR	03/11/16	TD	2.95%	2,000,000.00
N/A	2,628,765	CBA BUSINESS ONLINE SAVER	N	A	N/A	CALL	1.80%	2,628,764.66
Total	74,128,765					AVG	2.96%	74,148,844.66

Note 1. CP = Capital protection on maturity
 N = No Capital Protection
 Y = Fully covered by Government Guarantee
 P = Partial Government Guarantee of \$250,000 (Financial Claims Scheme)

Note 2.

Type	Description	
FRN	Floating Rate Note	Principal can vary based on valuation, interest payable via a floating interest rate that varies each quarter.
TD	Term Deposit	Principal does not vary during investment term. Interest payable is fixed at the rate invested for the investment term.
CALL	Call Account	Principal varies due to cash flow demands from deposits/withdrawals, interest is payable on the daily balance.

Note 3. Term Deposits can be traded on a day-to-day basis, and therefore Council is not obliged to hold the investments to the maturity dates.

5

For the month of July 2016, as indicated in the table below, there is a dissection of the investment portfolio by investment type. It illustrates the current fair value of investments has remained the same as June 2016, but overall is still demonstrating a cumulative unrealised gain of \$20,080.

10

Dissection of Council Investment Portfolio as at 31 July 2016

Principal Value (\$)	Investment Linked to:-	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
70,000,000.00	Term Deposits	70,000,000.00	0.00
1,000,000.00	Floating Rate Note	1,000,080.00	80.00
2,628,764.66	Business On-Line Saver (At Call)	2,628,764.66	0.00
500,000.00	Bonds	520,000.00	20,000.00
74,128,764.66		74,148,844.66	20,080.00

5 The current value of an investment compared to the principal value (face value or original purchase price) provides an indication of the performance of the investment without reference to the coupon (interest) rate. The current value represents the value received if an investment was sold or traded in the current market, in addition to the interest received.

10 The table below provides a reconciliation of investment purchases and maturities for the 1 July 2016 to 31 July 2016 on a current market value basis.

Movement in Investment Portfolio – 1 July 2016 to 31 July 2016

Item	Current Market Value (at end of month) \$
Closing Balance at 30 June 2016	76,742,693.42
Add: New Investments Purchased	20,000,000.00
Add: Call Account Additions	1,000,000.00
Add: Interest from Call Account	6,151.24
Less: Investments Matured	23,000,000.00
Less: Call Account Redemption	600,000.00
Less: Fair Value Movement for period	0.00)
Closing Balance at 31 July 2016	74,148,844.66

15 **Investments Maturities and Returns – 1 July 2016 to 31 July 2016**

Principal Value (\$)	Description	Type	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
1,000,000.00	Auswide Bank	TD	04/07/16	91	3.01%	7,504.38
2,000,000.00	NAB	TD	08/07/16	151	3.02%	24,987.40
2,000,000.00	Bankwest	TD	06/07/16	90	3.00%	14,794.52
1,000,000.00	Bankwest	TD	04/07/16	63	2.70%	4,660.27
2,000,000.00	Auswide Bank	TD	04/07/16	91	3.01%	15,008.77
1,000,000.00	NAB	TD	14/07/16	91	3.09%	7,703.84
2,000,000.00	Bankwest	TD	12/07/16	120	3.00%	29,589.04
1,000,000.00	ME Bank	TD	04/07/16	153	2.95%	37,097.26
2,000,000.00	NAB	TD	04/07/16	89	3.07%	14,971.51

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Principal Value (\$)	Description	Type	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
2,000,000.00	Bank Of Queensland	TD	07/07/16	91	3.00%	14,958.90
2,000,000.00	ME Bank	TD	26/07/16	91	3.06%	15,258.08
2,000,000.00	Bankwest	TD	04/07/16	48	2.60%	6,838.36
20,000,000.00						193,372.33

5 The overall 'cash position' of Council is not only measured by what funds Council has invested but also by what funds Council has retained in its consolidated fund or bank account as well for operational purposes. In this regard, for the month of July 2016 the table below identifies the overall cash position of Council as follows:

Dissection of Council Cash Position as at 31 July 2016

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	70,000,000.00	70,000,000.00	0.00
Floating Rate Note	1,000,000.00	1,000,080.00	80.00
Business On-Line Saver (At Call)	2,628,764.66	2,628,764.66	0.00
Bonds	500,000.00	520,000.00	20,000.00
Total Investment Portfolio	74,128,764.66	74,148,844.66	20,080.00
Cash at Bank			
Consolidated Fund	3,407,182.59	3,407,182.59	0.00
Total Cash at Bank	3,407,182.59	3,407,182.59	0.00
Total Cash Position	77,535,947.25	77,556,027.25	20,080.00

10 Financial Implications

Council uses a diversified mix of investments to achieve short, medium and long-term results.

15 Statutory and Policy Compliance Implications

In accordance with Regulation 212 of the Local Government (General) Regulation 2005, the Responsible Accounting Officer of Council must provide Council with a monthly report detailing all monies Council has invested under section 625 of the Local Government Act 1993.

20 The Report must be presented at the next Ordinary Meeting of Council after the end of the month being reported. In this regard, the current Council Meeting cycle does not always allow this to occur, especially when investment valuations required for the preparation of the report, are often received after the deadline for the submission of reports for the meeting. Endeavours will be made to ensure the required report will be provided to Council and this will for some months require reporting for one or more months.

25

Council's investments are carried out in accordance with section 625(2) of the Local Government Act 1993 and Council's Investment Policy. The Local Government Act 1993 allows Council to invest money as per the Ministers Order – Forms of Investment, last published in the Government Gazette on 11 February 2011.

- 5 Council's Investment Policy includes the objective of maximising earnings from authorised investments and ensuring the security of Council Funds.
- 10 Council at its Ordinary Meeting held 8 October 2015 resolved through resolution **15-515** to insert a new objective into its adopted Investment Policy, which gives a third tier consideration by Council to Environmental and Socially Responsible Investments, when making investment decisions.

Report No. 13.8 **Carryovers for Inclusion in the 2016/17 Budget**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2016/801
5 **Theme:** Corporate Management
 Financial Services

Summary:

10

This report is prepared for Council to consider and to adopt the carryover Budget allocations for works and services, either commenced and not completed, or not commenced in the 2015/2016 financial year for inclusion in the 2016/2017 Budget Estimates.

15

Each year Council allocates funding for works and services across all programs. For various reasons, some of these works and services are incomplete at the end of the financial year. The funding for these works is restricted at the end of the financial year, and is carried over as a budget allocation revote to the following year, to fund the completion of the work or service.

20

This report identifies all the works and services recommended to be carried over from the 2015/2016 financial year to the 2016/2017 Budget Estimates. The report also identifies the funding for each recommended budget allocation carryover.

25

In compiling this report, the Financial Sustainability Plan (FSPP) 2015/2016, namely Part 7 regarding 'Policy and Decision Making' has also been considered.

RECOMMENDATION:

That the works and services, and the respective funding shown in Attachment 1 (#E2016/74385), Attachment 2 (#E2016/74388) and Attachment 3 (#E2016/74387) be carried over from the 2015/2016 financial year and that the carryover budget allocations be adopted as budget allocation revotes for inclusion in the 2016/2017 Budget Estimates.

Attachments:

30

- 1 Carryovers and funding for inclusion in 2016/2017 Budget - General Fund, E2016/74385
- 2 Carryovers and funding for inclusion in 2016/2017 Budget - Water Fund, E2016/74388
- 3 Carryovers and funding for inclusion in 2016/2017 Budget - Sewerage Fund, E2016/74387

35

Report

Each year Council allocates funding for works and services across all programs. For various reasons, some of these works and services are incomplete at the end of the financial year. The funding for these works and services is restricted at the end of the financial year to be carried over to the following year for completion.

This report identifies all the works and services to be carried over to the 2016/2017 Budget Estimates and the respective funding of each, relating to works and services not completed during the course of the 2015/2016 financial year. The specific details of all carryover works and services subject of this report are outlined for General Fund at Attachment 1, Water Fund at Attachment 2 and Sewer Fund at Attachment 3.

Financial Implications

The works and services included in Attachments 1, 2 and 3 are fully funded and have no impact on the General Fund Accumulated Surplus (Working Funds) position of Council or the 2016/2017 Budget Estimates result. As in previous years there is a significant amount (albeit less) of carryovers to be brought forward to the current financial year. Table 1 below provides a history of the value of carryovers in recent years with the proposed total carryovers for 2016/2017 \$7,799,100 less then the carryovers related to the 2015/2016 financial year. Council may recall that there was an earlier assessment of carryovers was conducted before finalisation of the 2016/2017 Budget Estimates with them being included at that point.

Table 1 - Value of budget carryovers 2012/13 – 2016/17

Fund	2012/13 (\$)	2013/14 (\$)	2014/15 (\$)	2015/16 (\$)	2016/17 (\$)
General	8,596,400	6,181,100	12,863,500	10,550,300	5,022,100
Water	579,800	1,150,300	586,200	1,671,900	729,900
Sewer	1,852,500	1,703,700	877,100	1,929,000	600,100
Total	11,028,700	9,035,100	14,326,800	14,151,200	6,352,100

General Fund

The value of works carried over to 2016/2017 for the General Fund are significantly less (\$5,528,200) than that carried over for the 2015/2016 year. Of the \$5,022,100 of General Fund carryovers, approximately 55% (\$2,780,400) is attributable to Local Roads and Drainage projects not completed in 2015/2016 to be carried forward to 2016/2017.

Special Rate funded community building maintenance and public toilet upgrades within the Facilities Management Program represent approximately 11% (\$553,300) of the General Fund carryovers. It is anticipated these works will be delivered by June 2017.

Water and Sewer Funds

Carryovers for the Water and Sewer Funds have decreased by \$942,000 and \$1,328,900 respectively compared to the carryover applicable for the 2015/2016 financial year.

In terms of the overall carryovers included at Attachments 1, 2 and 3, where the bulk of the carryovers related to projects in the Infrastructure Services Directorate, the following table outlines for Councillors information as to the extent of carryovers where works are in progress or contracts awarded at the time this report has been prepared:

Table 2 – Schedule of Carryover works current status

Project	Carryover \$	Project Status
Tweed Street Master Plan (Design Only)	120,000	Procurement of consultant in progress and will be completed in August 2016. Actual design works to be completed by November 2016.
Project Investigation & Planning	94,000	Works in progress and scheduled to be completed by November 2016.
Broken Head Road - Pavement Rehabilitation	10,600	Design development budget. Works funded in 2016/17 & 2017/18.
Parking Studies for Bang, Bruns & Mullum	28,900	Studies in progress and being completed with a staged delivery for Wategos, Mullumbimby, Bangalow and Brunswick Heads.
Rifle Range Road Intersection Upgrade	24,600	Interim works completed last financial year associated with demolition of rail overbridge. Design development for ultimate intersection to be done this financial year.
Marine Pde - Footpath	55,600	Design works in progress. Actual construction works scheduled for September to December 2016.
2008/09 Special Rate Funds - O'Meara's Bridge	39,100	Funds required for replacement of O'Meara's Bridge
Bridges Capital Renewal Miscellaneous (From 44201)	185,000	Funds required for bridge replacements.
PAMP Construction	69,300	Works not finalised due to resignation of Traffic & Transport Planner. Will be completed in this financial year.
SGB Street Drainage Improvements	4,900	Design development in progress. Actual construction works funded separately and scheduled for implementation between September and November 2016.
Lighthouse Road, Byron Bay	20,000	Works not able to be started last financial year due to a lack of design development & investigation resources. Will be completed this financial year.
Federal Drive, Goonengerry, pavement upgrade	52,800	Design works now completed. Property acquisitions in progress. Actual construction works scheduled for later this calendar year, subject to land acquisition.
Bus Shelter Upgrades	24,800	Grant is over a number of financial years. Design development works in progress and construction works to be completed this financial year.
Wilsons Creek Road east of Montecullum	21,600	Unexpended Grant, construction finalised July 2016
22 Bangalow Road - Resolve Stormwater Flooding	9,900	Design development works in progress.

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STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.8

SGB Street Drainage Upgrade Stage 2	20,000	Design development in progress. Actual construction works funded separately and scheduled for implementation between September and November 2016.
Water Lilly Park Lake Options Study	10,000	Options study in progress and will be reported to Council in the near future.
Safer Roads Project – Coolamon Scenic Drive	69,000	Unexpended Grant, construction finalised July 2016
Brunswick Valley Way/Tweed Valley Way Yelgun	57,000	Works were completed in July 2016.
Myocum Road Segment	65,500	Design development and preliminary works completed in 2015/16. Actual construction works in progress and will be completed in September 2016.
Ruskin Lane Stormwater Augmentation	62,600	Works completed in August 2016.
Massinger St, Lawson St to Kipling St	595,000	Works completed in August 2016.
Purchase of Surplus ADF Bridges	20,900	Unexpended funds to part assist with purchase of additional bridges.
Orana Road Ocean Shores	20,000	Design development works in progress.
Broken Head Road, Suffolk Park - South of Clifford	431,600	Design development works in progress.
Main Arm Road - Blind Mouth Causeway Upgrade	83,000	Funds needed for implementation.
Byron Bay Bypass	220,800	Funds needed for implementation following project approval.
Massinger/Lawson St Roundabout	120,000	Contract works scheduled between August and November 2016.
Clifford St intersection with Broken Head Road	131,400	Short term design development works in progress. Procurement for redesign of roundabout to occur in 2017/18
Bayshore Drive/Ewingsdale Road Roundabout	84,700	Design development works and preparation of contract documents in progress and will be finished by December 2016.
Initial Costs Car Park at Bangalow Sports Fields	27,800	Design development works in progress and will be finished later in 2016.
Total	2,780,400	

5 Whilst Council in accordance with Clause 211 of the Local Government (General) Regulation 2005 conducted its annual meeting to approve expenditure and voting of money on 29 June 2016 via Resolution **16-348**, the expenditure items subject of this report were not included in the 2016/2017 Budget Estimates but now need to be. The intent of this report is to seek Council approval to revoke the carryovers from the 2015/2016 financial year and to adopt the budget allocation carryovers for inclusion in the 2016/2017 adopted Budget Estimates.

10 The Strategic Planning Committee at its meeting held on 28 March 2013 considered Report 4.3 on the Council's financial position for the 2012/2013 financial year. The recommendations from this meeting were adopted by Council at its Ordinary Meeting held on 18 April 2013 through resolution **13-164**. Committee recommendation SPC 4.3 in part 5 included the following process to be applied

to the consideration of any amount identified as a carryover to the 2013/14 and future Budgets and funded from general revenues:

- 5 *That Council determines that any general revenue funded allocated expenditure, not expended in a current financial year NOT be automatically carried over to the next financial year before it is reviewed and priorities established.*

10 Resolution **13-164** has also been incorporated into Part 7 – ‘Policy and Decision Making’ of the Financial Sustainability Plan (FSP) 2015/2016 considered by Council at its Ordinary Meeting held on 10 December 2015 (Resolution **15-606**).

This report was also considered by the Finance Advisory Committee at its Meeting held on 18 August 2016.

15 **Statutory and Policy Compliance Implications**

Clause 211 of the Local Government (General) Regulation 2005 outlines the requirements of Council relating to authorisation of expenditure. Specifically the Clause 211 states:

- 20 (1) *A council, or a person purporting to act on behalf of a council, must not incur a liability for the expenditure of money unless the council at the annual meeting held in accordance with subclause (2) or at a later ordinary meeting:*
- 25 *(a) has approved the expenditure, and*
- (b) has voted the money necessary to meet the expenditure.*
- 30 (2) *A council must each year hold a meeting for the purpose of approving expenditure and voting money.*

Council resolution **13-164**

Part 7 – ‘Policy and Decision Making’ of the Financial Sustainability Plan (FSP) 2016/2017.

Report No. 13.9 **End of Term Report 2016**
Directorate: Corporate and Community Services
Report Author: Mila Jones, Corporate Governance Coordinator
File No: I2016/806
5 **Theme:** Corporate Management
 Governance Services

Summary:

10 It is a requirement of the Integrated Planning and Reporting Framework that all councils report on the progress of implementing the Community Strategic Plan and is to be presented at the final meeting of an outgoing council. The Report is to include the effectiveness in achieving its social, environmental, economic and civic leadership objectives.

15 The period to be covered by the End of Term Report is the four year term of council. Council has now prepared its draft End of Term Report for the period 2012 to 2016 and is now provided to Council for endorsement and inclusion in the Annual Report 2015-2016 (as required by the Integrated Planning and Reporting Framework).

20 Council has taken the opportunity while preparing this End of Term Report to celebrate many of the key achievements that may not have been prescribed in its Community Strategic Plan 2012-2022 but however contribute to Council's successes over the last four years.

RECOMMENDATION:

1. **That Council notes the Community Strategic Plan and Delivery Plan status (Attachment 2 #E2016/74748).**
- 2 **That Council adopt the End of Term Report 2016 (Attachment 1 #E2016/77189).**

Attachments:

- 1 Draft End of Term Report 2016, E2016/77189
- 2 End of Term 2016 CSP and DP Status, E2016/74748

Report

5 It is a requirement of the Integrated Planning and Reporting Framework that all councils report on the progress of implementing the Community Strategic Plan and is to be presented at the final meeting of an outgoing council. The Report is to include the effectiveness in achieving its social, environmental, economic and civic leadership objectives.

10 The period to be covered by the End of Term Report is the four year term of council. Council has now prepared its draft End of Term Report for the period 2012 to 2016 and is now provided to Council for endorsement and inclusion in the Annual Report 2015-2016 (as required by the Integrated Planning and Reporting Framework.

15 Council has taken the opportunity while preparing this End of Term Report to celebrate many of the key achievements that may not have been prescribed in its Community Strategic Plan 2012-2022 but however contribute to Council's successes over the last four years.

20 These highlights include the development of the Financial Sustainability Plan which helped to find new ways to reduce expenditure and grow revenue so Council could invest more in infrastructure and services; the Plan being foundational to Council being declared "Fit for the Future".

25 In order to measure the level of Council's success in achieving the objectives of the Community Strategic Plan, staff assessed each of the activities listed in the four year Delivery Program to determine if targets were achieved, mostly achieved or not achieved. Refer to the matrix at Attachment 2 for a breakdown of the assessment.

Financial Implications

There were no financial implications in the preparation of the End of Term Report.

30 Statutory and Policy Compliance Implications

Section 402 of the Local Government Act 1993 requires that all local government areas must have a Community Strategic Plan that has been developed and endorsed by Council. A review of the progress must be presented at the last meeting of the outgoing council.

Report No. 13.10 NSW Crown Holiday Parks Trust - Brunswick Heads Holiday Parks Update

Directorate: Corporate and Community Services

Report Author: Mark Arnold, Director Corporate and Community Services
Shannon Burt, Director Sustainable Environment and Economy

File No: I2016/892

Theme: Corporate Management
Governance Services

Summary:

This report has been prepared to provide Council with an update on the implementation of **Resolution 15-651** and the amendments proposed by the NSW Crown Holiday Parks Trust to the Plans of Management for the Ferry Reserve, Massey Greene and Terrace Reserve Holiday Parks.

The proposed amendments have been developed by the Trust to address the concerns raised by Council and the Community to the adopted Plans of Management for each of the Holiday Parks.

In relation to the ongoing discussions between Council and the Trust, the Trust is seeking Council's endorsement of the proposals detailed in the *Briefing Paper – Amendment of Adopted Plans of Management for the Ferry Reserve, Massey Greene and Terrace Reserve Holiday Parks, Brunswick Heads NSW*, including the amendments to the Plan of Management maps, for the purpose of further public consultation as part of a process to review, amend and adopt revised Plans of Management for the Ferry Reserve, Massey Greene and Terrace Reserve Holiday Parks.

RECOMMENDATION:

That Council for the purpose of the further public consultation:

- a) **endorse in principle the proposed amendments to the Plan of Management Maps, as detailed in the *Briefing Paper – Amendment of Adopted Plans of Management for the Ferry Reserve, Massey Greene and Terrace Reserve Holiday Parks, Brunswick Heads NSW*; and**
- b) **note the tabling of the draft Plan of Management Maps in the *Briefing Paper – Amendment of Adopted Plans of Management for the Ferry Reserve, Massey Greene and Terrace Reserve Holiday Parks, Brunswick Heads NSW* at the meeting.**

Report

Council at its ordinary meeting held on 10 December 2015, following consideration of Report 13.18 – Update on s68 applications for Approvals to Operate – Brunswick Heads Holiday Parks, resolved as follows (Resolution 15-651):

1. That Council note the report.
 2. That Council develop a Memorandum of Understanding with NSW Crown Holiday Parks Trust to guide future interaction and relationship between Council and the Trust in performing Respective roles relating to Crown Reserves in Brunswick Heads
 3. That Council invite the NSW Crown Holiday Parks Trust to submit applications for Section 68 Approval with consideration given to the boundaries as stated in resolutions:
 - 12/627 of August 2012
 - 12/995 of 20 December 2012
 - 13/25 of 14 February 2013
 - 13/237 of 9 May 2013
 - 15/323 of 16 July 2015
- Special Conditions to include:
- Use of the foreshore Area at Ferry Reserve Caravan Park for soft camping only at peak holiday periods i.e. Christmas, Easter, and School Holidays only. Soft camping to be tents and or camper trailers.
 - Use of the South End of The Terrace Reserve Caravan Park for soft camping only at peak holiday periods i.e. Christmas, Easter, and School Holidays only. Soft camping to be tents and or camper trailers. (camper trailers to be limited by weight)
4. That Council giving consideration to the parks not currently having a licence to operate, agree to the parks continuing operating to account for bookings already taken, a new application for a Section 68 Approval be forwarded to Council for the Commercial Areas of operation i.e. The Holiday Parks within 3 months.
 5. That, should NSW Crown Holiday Parks Trust need more time to review/change the Plans of Management for the recreational areas, the Trust is to advise Council of the period required to complete the changes and subsequently submit the application.
 6. That Council forward this resolution to the relevant Minister for comment and or advice.

Memorandum of Understanding

The Memorandum of Understanding referred to in Part 2 of Resolution 15-651 was an action adopted by Council to guide and improve the ongoing relationship between Council and the NSW Crown Holiday Parks Trust.

As previously reported to Council in Report 13.18 – Update on s68 applications for Approvals to Operate – Brunswick Heads Holiday Parks, Council Representatives met with Representatives of the NSW Crown Holiday Parks Trust on Thursday, 8 October 2015 to discuss both the concerns of the community and Council in relation to works on the Brunswick Heads Foreshore Reserves and the applications submitted for the renewal of the S68 Approvals to Operate the Crown Holiday Parks in Brunswick Heads.

The meeting was held on a "without prejudice" basis and as such the meeting and the Minutes are regarded as confidential, due to the "commercial in confidence" nature of the matters that were discussed.

5 A further meeting was held on Thursday, 26 November 2015, with representatives of the NSW
Crown Holiday Parks Trust to discuss the development of a Memorandum of Understanding
between the Trust and Council. The purpose of the Memorandum of Understanding as previously
stated being to guide and improve the future interaction and relationship between the parties, to
allow both the Trust and Council perform their respective roles in regard to the care, control and
10 management of the Crown Reserves in Brunswick Heads.

The draft Memorandum of Understanding was considered by Council at its Ordinary meeting held
on 10 December 2015, and following the adoption of Part 2 of Resolution 15-651, the finalisation of
the Memorandum of Understanding was listed for discussion at a teleconference meeting held 27
15 February 2016.

At this meeting it was agreed that rather than focusing on finalising the Memorandum of
Understanding, the Trust with reference to the previous discussions and to the Resolutions and
special conditions detailed in Part 3 of Resolution 15-651, would concentrate on reviewing and
20 amending (refer Part 5 of Resolution 15-651) the Plan of Management maps for each of the three
Crown Holiday Parks in Brunswick Heads being the Ferry Reserve, Massey Greene and Terrace
Reserve Holiday Parks.

Proposed Amendments Plan of Management - Maps

25 On 7 July 2016 a site inspection was conducted by the Trust and attended by Council
representatives. The inspection ground-truthed the revised maps prepared by the Trust since the
teleconference on 27 February 2016. The maps considered both the operational boundaries of the
Holiday Parks and the integration with the adjoining recreational areas, and the Resolutions and
special conditions defined by Council in Part 3 of Resolution 15-651.

30 At the Councillor Strategic Planning Workshop held in 11 August 2016, Council received a
presentation from the Trust on the Plan of Management amendments proposed for each of the
three Brunswick Heads Crown Holiday Parks. This was supported by the Briefing Paper –
Amendment of Adopted Plans of Management for the Ferry Reserve, Massey Greene and Terrace
35 Reserve Holiday Parks, Brunswick Heads NSW, distributed to Councillors prior to the Workshop.

Council are reminded that the Briefing Paper was provided to Council on a confidential basis and is
not to be disclosed or publicly distributed until the Trust has been able to meet with any of the
residents that might be affected by the proposed changes. Based on the timeline provided by the
40 Trust following the Councillor Strategic Planning Workshop, any required consultation with
residents will be completed prior to this meeting. On this basis it is proposed to table the amended
Plan of Management maps at the meeting.

45 The key Community issues for each of the Holiday parks and the Trust proposal to address each of
these issues have been summarised in the following tables:-

Table 1 - Ferry Reserve Holiday Park

Issue	Trust Proposal
Remove two rows of waterfront sites and add to public open space	One row of sites be removed to increase corridor and 1 metre buffer added to keep guests within their site
Provide unfettered access to the boat ramp	Adopted Plan of Management requires public access to be maintained. Public access will be maintained
Use of the former Fins Restaurant building	Restrictions on alternative uses due to zoning and gazetted purpose of reserve. Use for accommodation and guest facilities as per adopted POM is proposed
Address foreshore bank erosion at Ferry Reserve	Included in adopted Plan of Management. Trust seeking funding for works

Table 2 – Massey Green Holiday Park

Issue	Trust Proposal
Remove all sites from western end of holiday park to increase public open space adjacent to boat harbour.	No amendment is proposed. The Brunswick Boat Harbour masterplan indicates more public open space along the foreshore by moving yachts to new marina . A new western access, residence and reception is integral to the plan to create one way traffic flow to reduce congestion in Tweed Street.
Public Access to and along the foreshore	Adopted Plan of Management requires public access to be maintained. A dedicated public pathway is proposed to maintain a contiguous foreshore pathway to the east and west of the holiday park
Access and parking in boat harbour precinct and local area	Western foreshore access has been redesigned to improve access and parking. Additional land to provide more parking in Tweed street by relocating a cabin and removing 1 site

5

Table 3 – Terrace Reserve Holiday Park

Issue	Trust Proposal
Provide public access to and along the foreshore at Terrace Reserve.	Provide minimum 3 metre wide public access along the Simpsons Creek foreshore for the entire length of the holiday park. All buildings set back 10 metres from the top of the bank to create an open corridor
Maintain public access to the car park and footbridge	Public parking and public access is maintained in the adopted Plan of Management .
Natural attrition for vacating long term sites at Terrace	Progressive relocation of permanent residences from the foreshore is now proposed
No fencing of holiday parks or reserves	Adopted POM requires alternatives to fencing for security. POM specifies that fencing will only occur as a last resort
Restore Simpsons Creek Foreshore	The adopted POM authorises a foreshore restoration project. Programmed for 2017/18 subject to Board and agency approval

5 The Trust has indicated that the proposed amendments to the Plans of Management will be subject to further public consultation and that this consultation will occur in two (2) stages. The first stage will be based on the amendments to the Plan of Management maps and include onsite sessions and inspections arranged for groups of interested members of the public and stakeholders, in conjunction with a submission or feedback process.

10 The second stage will be the formal public exhibition on the draft amendments and will be the formal statutory process. The exhibited draft amendments will be informed by the submissions and public comment from the first stage of the consultation process.

15 The Trust in the presentation to the Councillor Strategic Planning Workshop provided the following framework for the further consultation process.

- Consultation with Council, Crown lands, park residents and the community undertaken concurrently
- 20 • Council site meeting, briefing and formal response to draft concepts
- Crown Lands technical review and approval of the Minister to amend the adopted POMs
- 25 • Community consultation to include briefing materials, guided site tours and period for feedback and comment.
- 6 week formal public exhibition period is proposed for draft amendments

30 Residents in parks are key stakeholders with legal rights regarding their tenancy. For this reason the Trust has indicated that it will be briefing residents in regard to the proposed amendments prior to this meeting and the commencement of the consultation with the wider public.

Section 68 Applications – Approval to operate a caravan park

Points 3, 4 and 5 from **Resolution 15-651** state:

- 5 3. *That Council invite the NSW Crown Holiday Parks Trust to submit applications for Section 68 Approval with consideration given to the boundaries as stated in resolutions:*
- 12/627 of August 2012
 - 12/995 of 20 December 2012
 - 13/25 of 14 February 2013
 - 10 • 13/237 of 9 May 2013
 - 15/323 of 16 July 2015
- Special Conditions to include:*
- 15 • Use of the foreshore Area at Ferry Reserve Caravan Park for soft camping only at peak holiday periods i.e. Christmas, Easter, and School Holidays only. Soft camping to be tents and or camper trailers.
 - 20 • Use of the South End of The Terrace Reserve Caravan Park for soft camping only at peak holiday periods i.e. Christmas, Easter, and School Holidays only. Soft camping to be tents and or camper trailers. (camper trailers to be limited by weight)
- 25 4. *That Council giving consideration to the parks not currently having a licence to operate, agree to the parks continuing operating to account for bookings already taken, a new application for a Section 68 Approval be forwarded to Council for the Commercial Areas of operation i.e. The Holiday Parks within 3 months.*
- 30 5. *That, should NSW Crown Holiday Parks Trust need more time to review/change the Plans of Management for the recreational areas, the Trust is to advise Council of the period required to complete the changes and subsequently submit the application.*

Subsequent to the amendments proposed in this report being made to the Plans of Management, applications under Section 68 of the Local Government Act for an Approval to Operate a Caravan Park that represent the actual site activities for each caravan park can be made to Council.

Financial Implications

There are no financial implications to Council from this report.

Statutory and Policy Compliance Implications

The endorsement of the proposed amendments to the Plan of Management maps, for the purpose of further public consultation is regarded part of the process being undertaken by the NSW Holiday Parks Trust to review, amend and adopt revised Plans of Management for the Ferry Reserve, Massey Greene and Terrace Reserve Holiday Parks.

The Plans of Management when adopted will guide the future development and operation of the three Crown Holiday Parks in Brunswick Heads.

The operation of caravan parks and camping grounds require Approval to Operate (ATO) under Section 68 (Part F2) of the Local Government Act 1993. Applications are lodged by the land owner to continue the operation of caravan park and camping ground activities and application fees are paid in accordance with Councils' adopted fees and charges.

The process of assessing and determining ATO applications is regulated under Chapter 7 Part 1 of

the Local Government Act 1993. Part of the consideration of such applications involves the auditing of compliance with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 (“the Regulation”).

- 5 Once it has been determined that the application represents the actual site activities, and satisfies the requirements of the Regulation, then an ATO approval is granted. Once an approval has been issued Council may determine to extend or renew an approval (but without changing the terms of the approval) if satisfied there is good cause for doing so.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.11 **Mullumbimby Flying-fox Camp Management Actions**
Directorate: Sustainable Environment and Economy
5 **Report Author:** Greg Shanahan , Natural Environment Policy and Projects Officer
File No: I2016/399
Theme: Ecology
10 Planning Policy and Natural Environment

Summary:

In response to community concerns regarding the impacts of Flying-foxes on residents adjoining the Mullumbimby Flying-fox camp, funds were allocated to prepare a management plan in line with the Office of Environment and Heritage (OEH) Flying-fox Camp Management Policy (2015).

As a means of implementing a more immediate response to the community concerns, environmental consultants Geolink were engaged to produce a simplified plan focused on management actions for the Mullumbimby camp. Savings from the reduced scope are being directed to on-ground works on Council managed land within or adjacent to the Mullumbimby camp in accordance with the Mullumbimby Flying-fox Camp Management Actions (the Plan). The Plan can guide works for other Flying-fox camps within the Shire, where issues are presently less acute, though possessing the potential for future community problems to arise.

The Plan was reviewed by Council staff, Department of Primary Industries (DPI) – Lands and the Office of Environment and Heritage (OEH). Slight changes have been made to the document to reflect comments received.

Consultation on the proposed management actions has also been held with the Mullumbimby Bat Camp Residents Action Group (Action Group) and members of the Rotary Club of Mullumbimby who manage the Rotary Rainforest Park bordering the camp. Feedback received from the Action Group and Rotary members regarding the management actions and continuing on-ground works by Council staff has been very positive and supportive.

Potential funding for further management actions at Mullumbimby and other Flying-fox camps within the Shire is being considered through the OEH's "\$1 million Flying fox camp management program" grant and through a possible regional application with other NOROC Councils.

Due to the operational nature of the Plan with actions already being implemented, the Plan is presented to Council for noting.

RECOMMENDATION:

That Council note the Mullumbimby Flying-fox Camp Management Actions report at Attachment 1 (E2016/18741) and the works already commenced to alleviate impacts between residents and the Flying-fox camps.

Attachments:

1 Mullumbimby Flying-Fox Camp Management Actions, E2016/18741

Background

Following a number of complaints regarding the impacts of Flying-foxes on neighbouring Mullumbimby residents, Council at the 30 April 2015 meeting resolved (**15-181**) to allocate funds towards the preparation of a Flying-fox camp management plan.

Resolution (15-181)

1. That Council note and amend the Draft 2015/2016 Operational Plan and Statement of Revenue Policy (comprising the draft Budget Estimates, Rates and Charges, Borrowings and Fees and Charges) as follows:
 - a) reallocate \$20,000 out of the \$33,000 in ledger account number 2606.18 on Page 48 of Attachment 1 "Environmental Levy, Unallocated" to create a new item "prepare Plan(s) of Management for bat colony(s)" in the same area of Sustainable Environment & Economy (ie Planning Policy & Natural Environment) or in a more appropriate area.

Following on from this, Council at the 21 May 2015 meeting resolved:

Resolution (15-214)

1. Acknowledge that there are conflicts (noise, smell) between residential amenity and activity in flying fox camps in at least three urban locations of the Shire;
2. Acknowledge that one such colony (Pine/Palm Avenues in Mullumbimby) resides in a recently planted Crown Reserve under Council control;
3. Consider and undertake any short-term works or measures that (i) do not threaten the species, and (ii) may ameliorate the impacts of the camp on neighbouring residents at Pine/Palm Avenues in Mullumbimby; and
4. Consider and report on similar measures and on the need for Camp Management Plans for camps at Eltham Place in Bangalow and at Beech Drive in Suffolk Park.
5. Receive a report on potential funding sources for the works resulting from Part 3 above, if available funds are not adequate.

Information on Parts 3 and 4 of resolution 15-214 is contained in this report.

A further \$13,300 was allocated to the preparation and implementation of the Flying-fox Plan at the September 2015 quarterly budget review (resolution 15-574), providing \$33,300 in total.

Report

Mullumbimby Flying-fox Camp

The rise in Flying-fox numbers at the Mullumbimby camp (Figure 1) during summer 2014/15 significantly increased impacts on adjoining residential areas, particularly for some residents on Palm Ave. Two meetings were held with residents and Council staff to discuss their concerns. A Mullumbimby Bat Camp Residence Action Group (Action Group) was formed to bring to the attention of Council and the NSW State Government the negative impacts the camp has on the community including: impacts from noise causing sleep deprivation, impacts from smell and general health concerns.

The camp is located along multiple land tenures including Council managed community land, Council managed Crown land and private freehold land – refer to Figure 1 in this report. Crown lands have advised that under presumptive title, management responsibilities reside with the landowners/managers of the respective properties to the middle of creeks.

5 The 19 February, 2016 survey revealed a Mullumbimby camp population of between 2,000 to 3,000 animals. There appears to have been a shift in the camp's location from Palm Ave (north) towards Garden Ave (south) (Figure 1). The May 2016 survey revealed a large winter decrease in numbers down to approximately 500, which has suited the implementation of mowing and weeding actions by Council staff.

Mullumbimby Flying-fox Camp Management Action (the Plan)

10 The NSW Government's Flying-fox Camp Management Policy (2015) encourages local councils to prepare Flying-fox Management Plans for approval by the Office of Environment and Heritage (OEH). OEH can then issue a five year licence for camp management actions which disturb flying foxes or their habitat. OEH advised that the preparation of a Flying-fox Management Plan is not mandatory. Council may instead assess and undertake works, where significant tree removal is required, following completion of a Review of Environmental Factors (REF).

15 The Mullumbimby Flying-fox Camp Management Actions (the Plan), see Attachment 1, was developed to provide the community with clear information on the ecological niche which Flying-foxes fill. It also provides legislative requirements and approved management actions for appropriate seasonal works. Given the sensitive nature of the vegetation, the ongoing presence of the Flying-foxes and the multiple land tenures, a planned and coordinated approach is required when implementing works. The Plan provides all the information for Council to readily complete a REF should large scale works such as significant tree removal be required.

25 The Plan is consistent with Level 1 (routine camp management actions) and Level 2 (creation of buffers) actions in the Office of Environment and Heritage (OEH) *NSW Flying-fox Camp Management Policy 2015*. There are no Level 3 (camp disturbance and dispersal) actions.

30 The Plan is a quicker and less expensive option than preparing a complete Flying-fox Management Plan, allowing the allocated budget to also deliver more timely on-ground actions.

Short-term (three year) management actions presented in the Plan seek to help alleviate impacts caused by the resident Flying-fox camp on adjacent residential areas without moving the problem elsewhere. The principal management actions are

- Management Action 1: Community Information and Education
- Management Action 2: Dwelling Buffers
- Management Action 3: Roost Habitat Enhancement

40 Medium to long-term (four to six year) Flying-fox management strategies are included to help further alleviate conflicts between local residents and the Flying-fox camp.

45 Feedback from OEH upon review of the Plan advised "In general, the proposed management approach appears achievable and appropriate". Other suggestions were addressed within the draft, including the noting that a Section 91 licence would only be required for actions which cannot be assessed under Parts 4 or 5 of the EP&A Act, and the development of a Safe Work Method Statement for the protection of workers and the camp is required.

The Plan has been approved by the DPI – Lands as being in accord with their requirements.

50 The Plan has been reviewed by key Council staff in both the Infrastructure Services (IS) and Sustainable Environment and Economy (SEE) directorates who will be implementing some of the Plan's actions.

Members of the Mullumbimby Bat Camp Resident Action Group (Action Group) were given an opportunity to review the Plan. The Action Group supported the recommended weed mitigation

works within the northern part of Rotary Rainforest Park while the animals are not present. Their feedback on the Plan was supportive.

On ground works (Response to Resolution 15-214 Part 3)

5 The Rotary Rainforest Park is Crown land managed by Council and Rotary. Rotary have been caring for the park, undertaking tree planting and weed management on an ongoing basis. Due to membership difficulties, maintenance of the park such as weed mitigation works, path maintenance and tree identification plague restoral was temporarily neglected. Council staff have recently supported Rotary by undertaking restoration works enabling Rotary to now upkeep the park.

10 With reduced numbers of Flying-foxes in the northern-most end of the camp, Council is conducting weed management activities, see Figure 1. The works are in accordance with the guidelines presented in the Plan by reducing weed infestation in a riparian area while safely managing the welfare of the Flying-foxes.

15 Based on the safe work buffer distancing of Flying-foxes greater than 50 m from workers and timing of works from May till the end of July (both of which are recommended in the Plan), Council staff have conducted mowing/brushcutting of paths and removal of sapling weed trees, predominantly Camphor Laurel and Devil's Fig, in the Rotary Rainforest Park (see Figure 1).
20 Rotary will then continue management of the park, including maintaining access paths, and repairing/uncovering tree name plaques.

Flying Fox Camps in Byron Shire (Response to Resolution 15-214 Part 4)

25 There are currently five main camps in the Byron Shire with current or potential conflicts with residents.

In Byron Bay, the Butler Street camp had been largely deserted for the past year, though there has been a return of Flying-foxes in early May 2016. At present there is a natural buffer between residents and Flying-foxes, so no immediate management is required. If the camp continues to
30 grow, a management plan may be required.

Also in Byron Bay, a new camp near Middleton Street has formed. With approximately 250 Flying-foxes present for the February 2016 survey the number has risen to 985 at the May 2016 survey, though no complaints have been recorded. Monitoring of the camp will continue.
35

The Suffolk Park camp had approximately 180 Flying-foxes present at the February survey, with the bats favouring the centre of the reserve away from residential dwellings. After initial complaints in 2010/2011, no new complaints have been received in 2015 or 2016. No animals were present at the May survey. Monitoring of the camp will continue.
40

The Bangalow camp with a current Flying-fox February 2016 survey population of approximately 1,000 animals has been a cause of complaints received by Council. A Review of Environmental Factors (REF) was completed in 2015 for the removal of camphor laurel trees to establish a buffer for affected residents. While some remedial pruning was conducted, tree removal was delayed due to the continued presence of Flying-foxes during the winter months. The May 2016 survey revealed a complete absence of animals, so rescheduled works are currently being undertaken.
45

There is an intermittent camp on a large lot residential area in Ewingsdale which has caused concern and property damage for some of the neighbouring residents. Council staff are currently working with residents to provide advice for a safe buffer management based on recommendations
50 in the Plan.

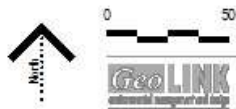
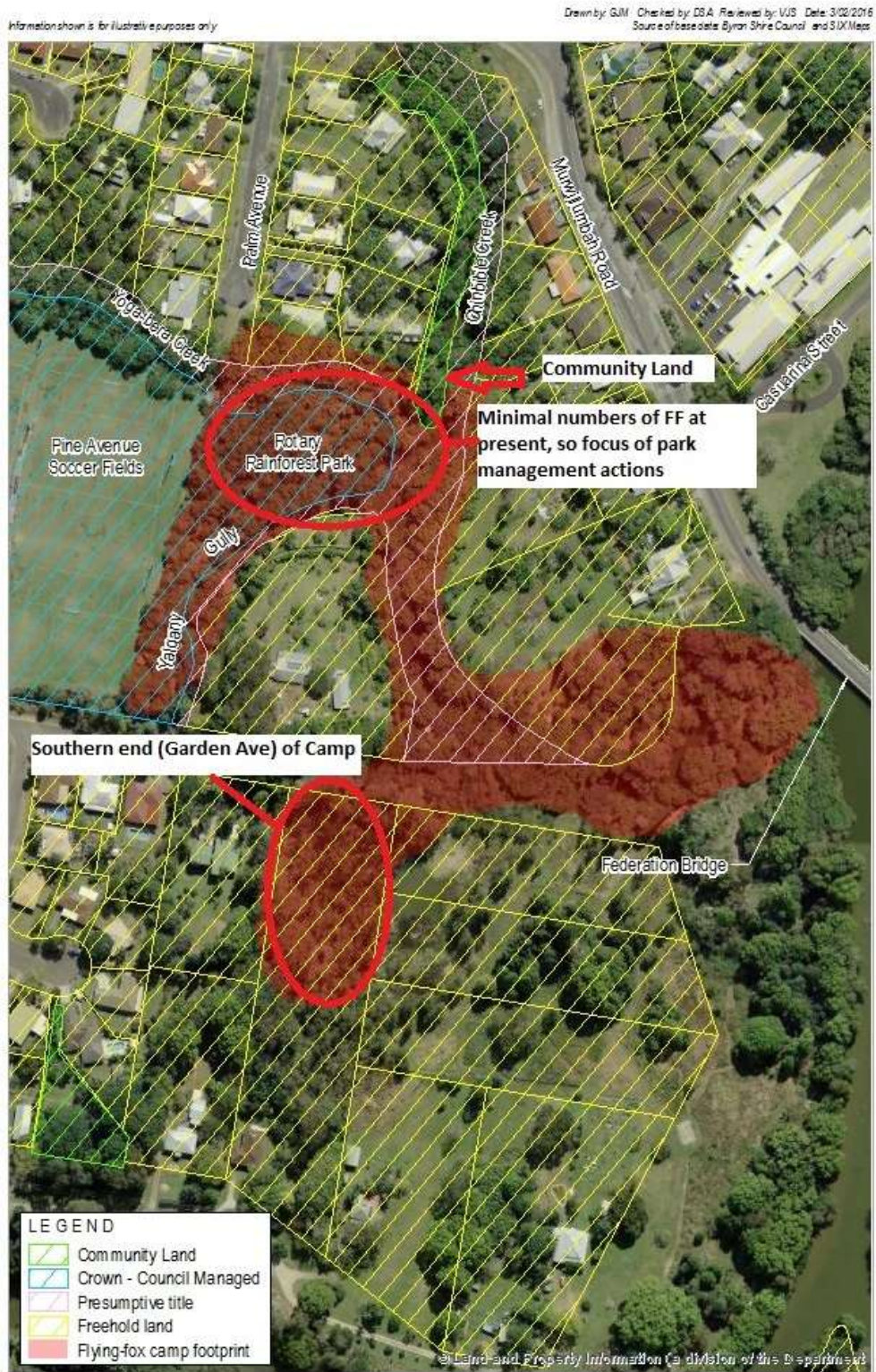
Financial Implications

5 Funds from the 2015-2016 budget (approximately \$21,000) are being used to implement the Plan's management actions, including on-ground weed control works and buffer creation at the Mullumbimby and Bangalow Flying-fox camps.

10 A grant application under OEH's recently opened \$1 million Flying-fox camp management program will be considered to further assist in the implementation of the Plan. Staff are exploring options to apply for a regional grant with other NOROC councils.

Statutory and Policy Compliance Implications

15 The Plan is consistent with OEH's Flying-fox Camp Management Policy.



Mullumbimby Flying-fox Camp - Management Actions
2557-1011

Land Tenure

Illustration 1.3

Figure 1 The Mullumbimby camp footprint and land tenure

Report No. 13.12 **Review of Enforcement Policy**
Directorate: Sustainable Environment and Economy
Report Author: Wayne Bertram, Manager Sustainable Development
File No: I2016/709
5 **Theme:** Ecology
 Development and Approvals

Summary:

10 Council's Internal Auditors, Grant Thornton, undertook a review of Council's Regulatory Enforcement Procedures in December 2014. This review was part of Council's adopted Internal Audit Plan with the findings identifying that Council Policy and Procedures had a low risk and recommending that Council's Enforcement Policy be reviewed by July 2016.

15 This report has been provided as a result of the review of the Enforcement Policy.

RECOMMENDATION:

1. **That Council endorse the Draft Enforcement Policy.**
2. **That the Draft Enforcement Policy be placed on public exhibition for a minimum of 28 days with submissions being received up to 42 days from the commencement of the public exhibition period.**
3. **That any submissions received as a result of the public exhibition be presented to Council for consideration in determining the adoption of the Draft Enforcement Policy. In the event that there are no submissions received during the exhibition period, then the Draft Enforcement Policy be adopted and notified in the local paper.**

20 **Attachments:**

- 1 Draft Enforcement Policy, E2016/63482

Report

Background

5 A background review of Byron Shire Council's (BSC) Regulatory Enforcement processes occurred in December 2014 by Council's internal Auditor Grant Thornton.

10 This review was part of the adopted 2014/15 Internal Audit Plan for Council and identified areas for improvement including the review of Council Policy and Procedures. The report specifically recommended that Council's Enforcement Policy be reviewed by July 2016. This report is provided to Council as a result of a review of the Enforcement Policy.

15 Additionally as a result of a Notice of Motion at the Ordinary Council meeting of the 8 October 2015, Council also resolved **15-524(5)**:

5. *That Council review compliance policy with regards to ensuring environmental protection of public land including sand dunes and beachfront areas and provide a report to Council.*

20 This matter has also been considered and included as a related policy for consideration within the Draft Enforcement Policy.

Ombudsman's Guidelines

25 On the 23 December 2015, the NSW Ombudsman's Office released Enforcement Guidelines and a Model Enforcement Policy for councils which have also been considered as part of the review of Council's Enforcement Policy.

30 One of the main functions of Council is to act as a regulator for a large range of legal duties and powers given by Acts and the Regulations made under them. The simple matter of enforcing legislative standards becomes complicated by the decision-making process after an actual offence has occurred.

35 Under any piece of legislation, be it the *Local Government Act 1993, Environmental Planning and Assessment Act 1979* etc. there are specific and legally defined pathways to enter private properties, conduct an investigation, gather necessary evidence and proceed to some educational or punitive resolution of the circumstance. It is not the purpose of this draft Enforcement Policy to separately re-define all the legal precursors of each piece of legislation used by council officers. Council must also be aware that there is a wide variety of legislation that is amended, repealed and introduced by state parliament from time to time. For these reasons, the draft Enforcement Policy has been limited to the general principles independent of the specifics of individual laws.

45 This policy sets out the standards and guidance that will be applied by Council when acting in its role as regulator and enforcement agency across a range of its relevant legal powers and duties. The policy applies to enforcement and regulation affecting members of the public, (e.g. residents and visitors) and businesses, (e.g. proprietors, employers and employees).

50 However, whilst the policy is intended to be reasonably comprehensive, it cannot cover every situation. Council's aim is to undertake its regulatory and enforcement role in a fair, open and consistent manner. In doing this it will act in accordance with the guidance and standards set out in this policy. The draft policy is intended to enable consistency of enforcement whilst recognising individual circumstances which may modify the appropriate action to be taken in each case.

55 When adopted, the Enforcement Policy will also provide clarity and specificity to the practises and 'procedural fairness' which are recognised by courts and communities across Australia. The details contained in the draft Enforcement Policy will not cause any changes to the way that council

conducts its business, as the processes and decisions detailed in the document are currently being adhered to through presently adopted procedures.

5 The review of clauses 1 to 4.13 are based on the NSW Ombudsman Model Compliance and Enforcement Policy Template (December 2015). In this part of the Enforcement Policy Council has inserted some amended objectives, case law quotes and additional definitions. Clause 4.6 has been expanded to address the subject of inappropriate conduct by persons reporting unauthorised activity and unreliable witnesses. The last paragraph of clause 4.10 has been inserted for civilian witnesses outside business hours.

10 The requirement for an annual compliance priorities program is proposed to be continued and has been included in Clause 4.12. Some minor amendments have been made to Clause 4.13 to include matters that may be old, inadequate reporting, trivial or vexatious reports, matters that have already been dealt with and discretionary powers.

15 During an internal consultation process it was established that an important issue for the enforcement policy was in relation to explaining the reasons as to how enforcement decisions are made. Clauses 4.14 to 4.3 are sourced from Council's existing enforcement policy, which were originally sourced from the NSW Department of Planning and Environment's Enforcement Policy.

20 Clauses 4.30 to 6.4 are new to draft Enforcement Policy.

Financial Implications

25 The presentation of clear and transparent Enforcement Policy has limited financial implications for Council.

Statutory and Policy Compliance Implications

30 While legislation does not require that an Enforcement Policy be adopted by Council, the Policy indicates the intent of Byron Shire Council to be open and transparent in enforcement practises. The Enforcement Policy is intended to work in association with the annual Compliance Program to ensure that consistent and defensible outcomes are achieved by all enforcement officers.

Report No. 13.13 PLANNING - 26.2015.7.1 - Planning Proposal for rezoning of land at 268 Ewingsdale Road Byron Bay (ex Sunnybrand Chicken site)

Directorate: Sustainable Environment and Economy

Report Author: Alex Caras, Team Leader Land Use Strategy

5 **File No:** I2016/740

Theme: Ecology
Planning Policy and Natural Environment

10 **Summary:**

15 This report presents a Planning Proposal for 268 Ewingsdale Road, Byron Bay (the ex-Sunnybrand site), which seeks to alter the land use zone with consequential minimum lot size and floor space ratio changes to provide for industrial development.

20 The Planning Proposal (included in Attachment 1) seeks to rezone part of Lot 181 in Deposited Plan 755695, approximately 13 hectares, from the existing RU2 Rural Landscape Zone to the IN2 Light Industry zone. The subject land is traversed by a Crown Land drainage reserve described as Lot 7022 in Deposited Plan 1113424. The proposed zone change will also affect this part of this reserve, an area of approximately 0.8 hectares. The balance of the subject land will remain in its current mix of zones. Changes to minimum lot size and floor space ratios will match the proposed zone changes.

25 Council staff have reviewed the Planning Proposal as submitted by the proponent and consider that it has sufficient merit to proceed ahead of an employment lands strategy for the following reasons:

- the subject land is well located to cater for a growing demand for light industrial lands to meet the needs of the growing economy;
- 30 • it will contribute to the establishment of a wider employment precinct incorporating the adjacent zoned industrial area of West Byron and the nearby Byron Arts and Industry Estate;
- it has the locational advantage of good transportation linkages including proximity to the Pacific Highway, access to services and a nearness to a workforce and local training opportunities;
- 35 • it is unlikely to be effected by amenity considerations for existing and future residential areas; and
- the zoning will not cause oversupply problems and reflects a logical response to securing what is effectively existing vacant industrial land brought about by the closure of a chicken processing factory in 2014, a significant local employer.

40 The report recognises that the planning proposal is inconsistent with the Far North Coast Regional Strategy (2006) and Draft North Coast Regional Plan (ie. it is located outside of the Town and Village Growth Boundary areas and not listed as a “proposed future urban release area” or as “Employment Lands”), as well as a number of State Environmental Planning Policies and s117 Directions. However these inconsistencies are generally a result of the Planning Proposal preceding Council’s employment lands strategy (scheduled to commence later this year) and a deficiency in supporting information accompanying the planning proposal. The reasons outlined above collectively support the planning proposal proceeding ahead of an employment land strategy, while the information deficiency can be addressed by the applicant completing a number of key studies prior to public exhibition. These studies will clarify the extent of the proposed IN2 zone and how the subject land can be serviced and accessed.

55 The report recommends that the amended Planning Proposal (Attachments 1 and 2) be forwarded to the Department of Planning and Environment for a Gateway Determination conditional on:

- i. The applicant undertaking a number of site specific studies prior to public exhibition;

- ii. The applicant entering into a voluntary planning agreement (as part of the planning proposal) to upgrade the Cavanbah roundabout to a 'dual lane, concrete roundabout' with a fourth leg to the south in order to service the proposed industrial development of the subject land;
- 5 iii. An increase in the minimum lot size to be applied in the proposed IN2 Zone from 1000m² to 2000m²; and
- iv. A floor space ratio of 0.9:1 to be applied to the IN2 Zone.

10 Council staff have discussed with the applicant's consultant the need to meet these conditions subject to Council and The Department of Planning and Environment supporting the Planning Proposal.

NOTE TO COUNCILLORS:

15 In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes of Council Meetings of Council's adopted Code of Meeting Practice (as amended) a Division will be deemed to have been called by the mover and seconder of all motions relating to this report.

RECOMMENDATION:

That Council:

- a) **Forward the Planning Proposal to amend Byron LEP 2014 (Attachment 1) to the NSW Department of Planning and Environment for a Gateway Determination, conditional on the applicant:**
 - (i) **as part of the planning proposal, formally entering into a voluntary planning agreement to upgrade the Cavanbah roundabout to a 'dual lane, concrete roundabout' with a fourth leg to the south required to service the proposed industrial development of the subject land; and**
 - (ii) **completing site specific studies on flooding impacts (including filling and drainage), traffic, water and sewerage, bushfire hazard, acid sulfate soils, ecology, Aboriginal heritage and land contamination from past use. These studies must be prepared to Council's satisfaction prior to public exhibition of the Planning Proposal; and**
 - b) **Request the Department of Planning and Environment retain delegated authority to make the LEP Amendment, as the subject land is not identified as a future urban release area and is outside the Town and Village Growth Boundary for Byron Bay in the Far North Coast Regional Strategy.**
- 20

Attachments:

- 1 26.2015.7.1 Planning Proposal for Ex Sunnybrand site - 268 Ewingsdale Road Byron Bay, E2016/63752
- 25 2 Assessment of Industrial lands in Byron LGA, E2016/63614
- 3 3 Form of Special Disclosure of Pecuniary Interest, E2012/2815

Report

The Planning Proposal

5 This Planning Proposal (Attachment 1) relates to land situated at 268 Ewingsdale Road, on the western edge of Byron Bay, described as part Lot 181 in Deposited Plan 755695, as shown in Figure 1. Lot 181 is approximately 17.4 hectares in area. It also includes a Crown Land drainage reserve that traverses north east / south west through Lot 181 and described as part Lot 7022 Deposited Plan 1113424 (Figure 2), which is about 0.8 hectares in area.

10 The Planning Proposal seeks to rezone approximately 13 hectares of the existing RU2 Rural Landscape zone to IN2 Light Industrial zone. The balance of the subject land will remain as a Deferred Matter under LEP 2014 and subject LEP 1988 zoning provisions. No change is proposed to the existing height of building control which will remain at 9 metres. The Planning Proposal will also:

- 15 • change the LEP 2014 'Floor Space Ratio' (FSR) map to apply an FSR of 0.9:1 to the proposed IN2 zone (consistent with Byron Arts & Industry Estate); and
- change the LEP 2014 'Minimum Lot Size' (MLS) map to apply a 2000m² MLS to the proposed IN2 zone. This is an amendment to the applicant's suggested 1000 m² minimum lot size (MLS) for the proposed IN2 zone.



20 **Figure 1: Site Identification Map**

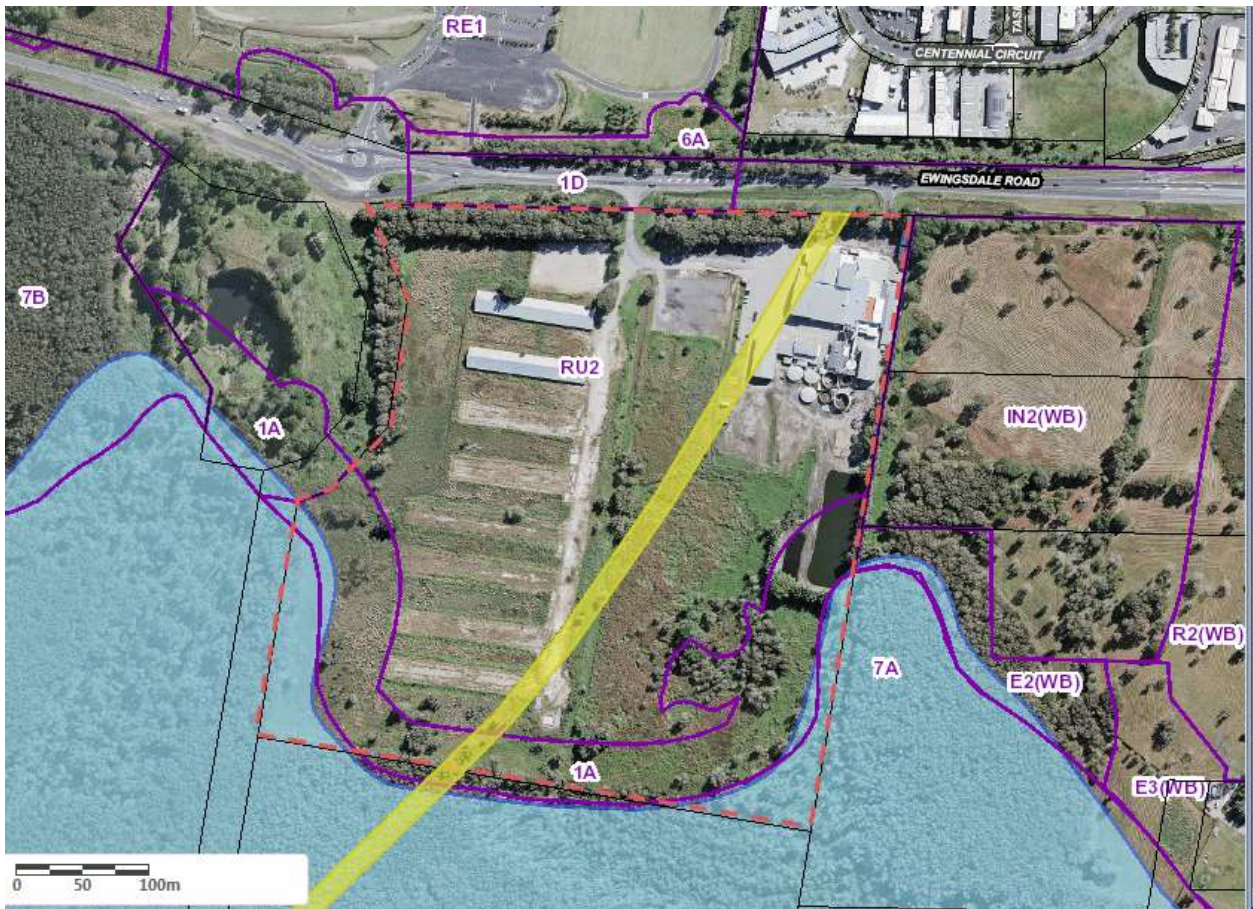


Figure 2: Current Zoning under Byron LEP 2014 and Byron LEP 1988. SEPP 14 Wetland area is shown in blue and Crown drainage reserve is shown in yellow.

5

Current Zones and Controls

The land is currently zoned part RU2 Rural Landscape and part Deferred Matter under Byron LEP 2014. The Deferred Matter land remains zoned part Rural 1(a) General Rural and part 7 (a) Wetlands zone under LEP 1988 as a result of Byron Shire not being permitted to include E2 and E3 zones in its 2014 LEP. About 13 hectares of the subject land is zoned RU2 and this is the part that the applicant has requested be amended by this Planning Proposal, as shown in Figure 2. The Minimum Lot Size (MLS) for the current RU2 zone is 40 hectares and the height of buildings limit is 9 metres. No FSR currently applies to the RU2 land.

15

Key Issues

- Far North Coast Regional Strategy
- Draft North Coast Regional Plan
- Supply and demand of industrial land
- Locational considerations
- Flora and fauna
- Aboriginal heritage
- Bushfire hazard
- Acid sulfate soils
- Flood prone land, filling and drainage
- Contaminated land

25

- Reticulated sewerage and water supply
- Traffic
- Minimum lot size
- State policy and planning controls

5

Far North Coast Regional Strategy

The subject land is located outside of the Town and Village Growth Boundary areas under the Far North Coast Regional Strategy (2006). It is not listed as a “proposed future urban release area” or as “Employment Lands”. The FNCRS does not identify any options for future employment lands in Byron Shire.

10

However, the proposal specifically responds to the following relevant FNCRS actions:

- *The Regional Strategy requires that Councils identify sufficient new commercial and industrial land to match the needs of the growing economy (page 38)*
- *Use of existing vacant industrial land should be considered prior to release of any major new industrial areas (page 37)*
- *Councils should plan for future industrial needs within existing urban areas and take into accounts economic markets, SEQ pressure for employment lands, lifestyle opportunities and transport improvements (page 36)*

15

That is:

20

- the subject land is well located to cater for a growing demand for light industrial lands to meet the needs of the growing economy;
- it will contribute to the establishment of a wider employment precinct incorporating the adjacent zoned industrial area of West Byron and the nearby Byron Arts and Industry Estate;

25

- this locality has the advantage of good transportation linkages including proximity to the Pacific Highway, access to services and a nearness to a workforce and local training opportunities;
- it is unlikely to be effected by amenity considerations for existing and future residential areas; and

30

- the zoning will not cause oversupply problems and reflects a logical response to securing what is effectively existing vacant industrial land brought about by the closure of a chicken processing factory in 2014, a significant local employer.

35

On this basis, the Planning Proposal is consistent with objectives and actions of the FNCRS.

Draft North Coast Regional Plan

The DPE has recently released a new *Draft North Coast Regional Plan* which has been publicly exhibited. The Draft Plan outlines a vision for the future of the North Coast and will guide strategic planning across the region over the next 20 years. An assessment against the *Draft North Coast Regional Plan* indicates that the land proposed for rezoning for industrial purposes in the current Planning Proposal is not identified as ‘Proposed Employment Land’ and is not within the ‘Urban Growth Area’ boundary for Byron Bay, as shown in the Urban Growth Area Map for Byron LGA. However, the *Draft North Coast Regional Plan* (NCRP) specifically recognises that the DPE will be undertaking further work with Byron Shire Council to identify land suitable for inclusion in the urban growth areas and that the relevant maps will be amended accordingly. Given the draft NCRP (Figure 22) shows Byron Shire as having a “limited surplus” of employment land, and given the

40

45

planning proposal is consistent with the employment land actions in the Far North Coast Regional Strategy (2006), it would appear likely to be included in any future amendments to the NCRP urban growth area maps.

5 Staff have had preliminary discussions with DPE about the proposed rezoning of this site and DPE are receptive to receiving a planning proposal in acknowledgement of its past use, location and need for additional employment lands. Further, DPE have advised that they are still considering council submissions on the draft NCRP urban growth boundaries. If Council resolves to proceed with this planning proposal then staff will advise DPE of this potential change to the urban growth boundary for Byron Shire.

10 **Supply and Demand for Industrial Land**

The Planning Proposal precedes a shire-wide review of employment land as part of Councils' Employment Land Strategy, which is scheduled to commence in 2016/17. For this reason the applicant has produced a report assessing the existing supply of industrial land and the existing and projected future demand for Industrial land ("Assessment of the Industrial Land in Byron LGA, June 2016") and this is included Attachment 2 to this report.

20 The key findings of this assessment for Byron Shire have been divided into 'Supply' and 'Demand' below.

Supply

25 There is approximately 77 hectares of zoned industrial land in Byron Shire. Approximately 56 hectares is developed (73%). Some of the remaining zoned but undeveloped land should be discounted (due to physical constraints) leaving approximately 14 hectares as future employment lands. About half of this is part of the recent West Byron LEP amendment. The discounted amount of zoned land (developed and undeveloped) is 56 plus 14 = 70 hectares.

30 Vacant industrial land in Byron Shire is currently only being offered for sale at Mullumbimby (off the plan) and at Bangalow (one lot). Over the last 6 years vacant industrial land has accounted for only 11% of industrial property sales (13 lots). A "windscreen" survey of all Byron Shire industrial estates was undertaken on 23 June 2016 to inform the supply assessment findings. The survey counted 20 vacant and subdivided lots (not including the Mullumbimby "off the plan" lots) of which only one lot was signposted 'For Sale'. The lack of recent sales would therefore indicate a lack of supply rather than a shortage of demand.

35 Demand

40 Estimated demand for industrial land, as correlated to population, was calculated using the methodology developed by the Queensland Department of Business, Industry and Regional Development (DBIRD). Applying this model to Byron Shire indicates that there should be between 63 and 109 hectares of zoned land to service its estimated 2031 population.

45 Table 1 shows how much land Byron Shire should have zoned and available to meet the 'low', 'medium' and 'high' demand estimates. The medium estimate from this model is 80 hectares of industrial zoned land by 2031. It also shows how the current zoned 'discounted' supply of industrial land (70 hectares) will diminish over time and then go into deficit (negative numbers) if more land is not zoned to meet projected demand. Bringing the Supply and Demand findings together we can estimate when Byron Shire will run out of zoned industrial land, based on the Qld DBIRD demand model and existing zoned supply.

50 Under the 'low' estimate demand scenario Byron Shire industrial land demand can be met by the existing supply of zoned land (to 2031), while under the 'medium' or 'high' demand scenarios it has already exceeded supply. In the absence of an employment lands strategy (to

be prepared in 2016/17) a ‘medium’ demand scenario is considered a reasonable basis for estimating future demand.

Table 1: Supply and demand table for industrial land in Byron Shire (based on existing ‘discounted’ supply of 70 hectares)

5

Population (Year)	Low		Medium		High	
	Low- (1.75 ha) / per 1000 pop.	Available Zoned land (ha)	Medium- (2.2 ha) / 1000 pop.	Available Zoned land (ha)	High- (3.0 ha) / 1000 pop.	Available Zoned land (ha)
32,250 (Yr.2016)	56	14	71	-1	97	-27
33,650 (Yr.2021)	59	11	74	-4	101	-31
35,000 (Yr.2026)	61	9	77	-7	105	-35
36,200 (Yr.2031)	63	7	80	-10	109	-39

10 In support of the ‘medium’ and ‘high’ demand scenarios above , a recent industrial land release at Mullumbimby (“off the plan”) resulted in 8 of the 11 lots being tentatively sold in a short period. This response provides a good indication of unmet demand for vacant industrial land.

On this basis Council should be looking to increase the supply of industrial zone land.

North Coast Employment Land Review (2015)

15 In 2015 the NSW government engaged Macro Plan Dimasi (MPD) to assess the supply and demand for industrial land in North Coast LGA’s, including Byron Shire. The North Coast Employment Land Review, 2015 was prepared as a background document to the draft North Coast Regional Plan. It assessed the zoned industrial land supply in Byron Shire at 66 hectares and used a gross floor space model assuming a 0.4% per annum LGA population growth and continued job losses in traditional industries associated with industrial land (only 51 new jobs assumed between 2011 and 2031). It concluded that Byron Shire will only use between 4.9 and 6.5 hectares of industrial land between 2011 and 2031. It also concluded that based on current zoned land Byron LGA will still have a 22 hectare surplus of industrial zoned land by 2031 and therefore has sufficient zoned land to meet its foreseeable requirements. The study cautioned that it did not discount any zoned land for physical constraints and has not considered if zoned land is available in the market preferred locations. It suggested that these factors may result in more zoned land being required, which is already supported by anecdotal evidence in the Shire.

30 The MPD study is very conservative. Its conclusion that there will still be 22 hectares of existing zoned industrial land vacant and available in 2031 does not match the current estimate that there is only 14 hectares vacant and available in 2016 (based on discounting and a “windscreen” survey). The applicant’s industrial land assessment (Attachment 2) appears to provide a more accurate basis for projecting future industrial demand in Byron Shire. The Qld DBIRD demand model is more simplistic but its results appear to match recent market responses such as the Mullumbimby “off the plan” sales.

35

Locational Considerations

5 The subject land is located immediately adjacent to an existing industrial zone (West Byron) and in close proximity to the Byron Arts and Industry Estate. This combined with its previous 'industrial' use would make the subject land a logical candidate for consideration in an employment lands strategy. As noted under the discussion on the FNCRS, this locality has the advantage of good transportation linkages including proximity to the Pacific Highway, access to services and a nearness to a workforce and local training opportunities.

Flora and Fauna (Ecology)

10 The Planning Proposal does not seek to rezone areas subject to LEP 1988 which are known to be ecologically significant. However, site specific flora and fauna studies have not been undertaken to confirm that there is no critical habitat or threatened species, populations or ecological communities on the remainder of the subject land. Such studies also would need to assess the ecological values of the unmade road reserve between the subject land and IQ quarry, as the applicant expects to use this as the primary access into the site. The road reserve is currently identified by Council as containing high environmental value vegetation.

15 If a Gateway Determination is issued it should be conditional on a detailed flora and fauna assessment being completed to Council's satisfaction prior to public exhibition. The final IN2 zone boundary may need to be modified to reflect the findings of this work.

Aboriginal Heritage

20 An AHIMS search undertaken by Council in July 2016 with a 200 metre buffer around the site indicates that there is a registered Aboriginal site on or within 200 metres of Lot 181. It is important that more information is known about the potential Aboriginal heritage significance of this site before the Planning Proposal proceeds to public exhibition. Consultation with the local Aboriginal community is also required.

25 If a Gateway Determination is issued it should be conditional on an Aboriginal cultural heritage assessment including liaison with the local Aboriginal community, being completed prior to public exhibition. This should cover all of the site and the unmade road reserve between the subject land and IQ quarry.

Bushfire Hazard

30 The forest and remnant vegetation located at the rear and near the side boundaries of the subject land is classified as bushfire prone land and /or buffer area.

35 A bushfire hazard report has not been undertaken and there has been no consultation with the Rural Fire Service (RFS). The consultation cannot take place until a bushfire hazard assessment has been undertaken and submitted to the RFS.

40 If a Gateway Determination is issued it should be conditional on a bushfire hazard assessment being undertaken prior to public exhibition, which identifies how bushfire risk/s associated with the change of land use will be managed. It is important that any required bushfire asset protection zones are contained on the subject land and do not impact on ecologically sensitive vegetation on or off the subject land.

Acid Sulfate Soils

45 The subject land is affected by acid sulfate soils (ASS Class 3 and 2). The applicant has not produced an acid sulfate soils assessment to indicate how this issue will be dealt with in a future industrial area.

50 Byron LEP 2014 contains clause 6.1 to address ASS in any future Development Application but Council needs to be confident that the change of land use is appropriate in this case and that any risks can be property managed.

If a Gateway Determination is issued it should be conditional on an acid sulfate soils assessment being undertaken prior to public exhibition.

5 **Flood Prone Land, Filling and Drainage**

Flooding and Fill

Most of the land to be zoned IN2 in this Planning Proposal is flood prone in a 5 Year ARI event or greater. Although it is low lying, it is not a known floodway.

10 The applicant indicates they would be filling the proposed IN2 zoned land to a level of 2.9m AHD, which equates to the 1% AEP design flood event with provisions for the 2050 Climate Change planning horizon (as per Belongil Creek Floodplain Risk Management Plan, 2015). The landform of the site varies between 1.6 m AHD to 2.6 m AHD so the site will need between 30 cm and 1.3 m
15 of fill to achieve the required levels.

However, the applicant has not produced a flood study to allow Council to assess the impacts of fill on the flow characteristics of flood water and flooding or stormwater on the subject land and other properties or developments. Nor has the applicant indicated where the fill will come from for the 13
20 hectare site, given this site will also be competing with other West Byron land for suitable fill. This could put back the timing of the industrial land coming onto the market. It will also add to the cost of the lot production on this site.

Council acknowledges that the provisions of existing clause 6.3 – *Flood Planning* of the Byron LEP 2014 will apply at development stage. If a Gateway Determination is issued it should be
25 conditional on a flood impact study being completed to Council's satisfaction prior to public exhibition, which assesses the appropriateness of the change of land use and the impact of filling in the proposed IN2 area. The study also should provide an indication of how much fill is required and where it might come from, as well as address current site drainage and future solutions
30 (discussed below).

Drainage

The subject land contains a large drain that takes water both from this site and the land north of Ewingsdale Road (sports fields and industrial area). Any filling of this site will need to consider the
35 ability for the existing drain to receive/manage future stormwater flows, or an alternative drainage solution.

A Crown land drainage reserve also exists on the site (Lot 7022), although it doesn't align with the existing drain and appears that it is not being used for drainage purposes. Council has received
40 correspondence from the Department of Primary Industries – Lands (DPI) regarding an application to purchase part of Lot 7022, being the drainage reserve on the subject site (Figure 2). DPI is currently seeking Council's comments on the application and is of the view that any industrial rezoning/subdivision of the site should contain drainage works that takes into consideration storm water flows that normally would have flowed through Lot 181 via the Crown Land drainage reserve.
45

Given the uncertainty regarding the future status of the Crown land drainage reserve and noting that the subject land adjoins and drains into a SEPP 14 Wetland, it is important that future site drainage and stormwater management can be addressed holistically as part of this planning
50 proposal.

Contaminated Land

Council considers that the past land use as a poultry abattoir (including wastewater disposal) along with poultry growing sheds places the subject land in a high risk category for land contamination.

At this stage there is insufficient information to be certain that the subject land is not contaminated; or if it is contaminated, that it can be remediated to an appropriate standard.

5 It is acknowledged that the applicant is proposing to use the land for industrial purposes, as opposed to more sensitive uses such as residential. If a Gateway Determination is issued it should be conditional on a contamination assessment being completed to Council's satisfaction prior to public exhibition. It will need to demonstrate that the land proposed to be zoned IN2 is either free from contamination or can be remediated to appropriate standards.

10 **Reticulated Sewerage and Water Supply**

The water and sewer demands of the area to be rezoned IN2 are not known at this stage, given the likely yield of the site this has yet to be determined. The site was once the single largest water user in Byron Shire and therefore it is likely to have adequate water supply "credits" to cater for use as future industrial land.

15 The site is not connected to reticulated sewerage and no entitlement currently exists. Connection to sewerage will need to occur if the IN2 zone proceeds. Council engineers advised in 2015:

20 *"A design for sewerage connection was prepared some years ago for an on-site sewage pump station and rising main to the sewerage treatment plant but work did not proceed. Capacity is currently available at the Byron STP subject to approvals, hydraulic assessments and payment of infrastructure (s64) contributions."*

25 If a Gateway Determination is issued it should be conditional on a detailed water and sewerage assessment being completed to Council's satisfaction prior to public exhibition.

Traffic

30 Traffic is a significant issue for this site. Due to significant through-traffic volumes on Ewingsdale Road the current direct access arrangement from the site from Ewingsdale Road is unlikely to be suitable for an additional 13 hectares of IN2 land, given the variety of traffic generating uses possible. The long term plan for Ewingsdale Road is to prevent direct access to Ewingsdale Road for new development. Access to this classified road should be via controlled intersections. Clause 101 of State Environmental Planning Policy (Infrastructure) 2007 requires that "where practicable, vehicular access to the land is provided by a road other than the classified road". It is
35 acknowledged that this planning proposal is not a development application to which this clause of the SEPP strictly applies but the principle espoused in the SEPP has been applied by the RMS and considered by Council to previous planning proposals (Seniors Living and West Byron) on Ewingsdale Road. The likely solution is to use the unmade road reserve linking with the Cavanbah roundabout to the west of the site on Ewingsdale Road for primary access and to provide an
40 internal link between the subject land and the recently rezoned West Byron industrial area. There has been no analysis of traffic generation from the site or its impacts on Ewingsdale Road and the nearby roundabout. The current configuration of the Cavanbah roundabout is not suitable for a fourth leg to the south and its design is not suitable for the heavy vehicles likely to be generated by industrial use. Council currently has consultants preparing concept designs for an upgrade of the
45 Cavanbah roundabout to a dual lane concrete roundabout with a fourth leg to the south. The current intersection is suitable for the existing traffic on Ewingsdale Road. The upgrade of the intersection would be 100% attributable to this development as the industrial development is the only reason to upgrade this intersection.

50 If a Gateway Determination is issued it should be conditional on a detailed traffic impact assessment being completed to Council's satisfaction prior to public exhibition. The traffic impact assessment should include a demand transport model. The model should use the applicable generation rates from RMS Technical direction TDT 2013/ 04a or the RTA guide to Traffic Generating Developments. This report will also need to assess the potential for road linkages back

through the proposed West Byron industrial land and the reconstruction of the Cavanbah roundabout.

Minimum Lot Size

- 5 The provision of a range of lot sizes in the industrial land market is considered highly desirable and there is anecdotal evidence that existing industrial clients are seeking larger lots to accommodate existing/future expansion requirements. The applicant's original planning proposal suggested a 1000 m² minimum lot size (MLS) for the proposed IN2 zone, consistent with nearby IN2 zoned land. However a MLS of 2000 m² would encourage larger lots that complement the existing supply of smaller lots (eg MLS 1000 m²) from other industrial estates and increase opportunities to accommodate existing/ future expansion requirements. Therefore the Planning Proposal contained in Attachment 1 (as amended) applies a 2000 m² MLS to the proposed IN2 land.

State Policy and Planning Controls

- 15 The Planning Proposal is generally consistent with the applicable State Environmental Planning Policies, however it is inconsistent with *SEPP 44 Koala Habitat Protection* and *SEPP 55 Remediation of Land*. These are addressed in more detail in the attached Planning Proposal (Attachment 1).

- 20 The Planning Proposal is generally consistent with a number of relevant Section 117 Directions. The absence of site specific studies and the absence of an adopted employment lands strategy means that it is justifiably inconsistent with Direction 1.1 - Business and Industrial Zones; 1.2 - Rural Zones; 1.3 - Mining, Petroleum Production and Extractive Industries; 1.5 - Rural Lands and 5.1- Implementation of Regional Strategies .

- 25 In the absence of site specific studies it is also inconsistent with 2. 3 - Heritage Conservation; 4.1- Acid Sulfate Soils; 4.3 - Flood Prone Land and 4.4 - Planning for Bushfire Protection. All Section 117 Directions are addressed in more detail in the Planning Proposal (Attachment 1).

Consultation with Applicant

- 30 Council staff have had two meetings and ongoing discussions with the applicant's consultant about key issues to be addressed as part of this planning proposal. These issues have been conveyed to the applicant and include: key studies to be completed prior to public exhibition (8 in total); amendment of the minimum lot size within proposed IN2 Light Industrial zone; and a voluntary planning agreement to upgrade the Cavanbah roundabout to a 'dual lane, concrete roundabout' with a fourth leg to the south in order to service the proposed industrial development of the subject land.

Options to Move Forward

- 40 The Council has the following options in regards to this matter:

- 1) **[Recommended]** Proceed to a Gateway Determination with the Planning Proposal (Attachment 1) subject to:
 - a) The studies listed below being completed prior to public exhibition. The primary aim of such studies being to identify the acceptable environmental and infrastructural requirements necessary to enable the subject land to accommodate light industrial development in an environmentally sustainable way:
 - 45 i) Flora and fauna assessment
 - ii) Aboriginal cultural heritage assessment
 - iii) Bushfire hazard assessment
 - 50 iv) Acid sulfate soils study
 - v) Flood impact study including drainage and stormwater management
 - vi) Contamination assessment

vii) Water and sewerage assessment

viii) Traffic impact assessment

b) An increase in the minimum lot size to be applied from 1000m² to 2000m²

c) A floor space ratio of 0.9:1 to be applied to the IN2 Zone

5 d) The applicant, as part of the planning proposal, entering into a voluntary planning agreement to upgrade the Cavanbah roundabout to a 'dual lane, concrete roundabout' with a fourth leg to the south in order to service the proposed industrial development of the subject land.

10 2) Not proceed with the Planning Proposal at this time and request that the range of additional studies be undertaken and the matter: (i) be brought back to Council for consideration as part of an updated Planning Proposal, or (ii) be assessed as part of the upcoming employment lands strategy in 2016/17.

3) Not proceed any further with the Planning Proposal.

15 **Conclusion**

The Planning Proposal attached to this report is an amended version of the one submitted by the applicant. The main amendment is that the 1000 m² MLS proposed by the applicant has been increased to a 2000 m² MLS to complement the existing supply of smaller lots (eg MLS 1000 m²) from other industrial estates and increase opportunities to accommodate existing/ future expansion requirements.

20 There is sufficient merit to enable Council to support the amended Planning Proposal and forward it to the Department of Planning and Environment for a Gateway Determination. However Council's support should be conditional on the applicant completing the following site specific studies prior to public exhibition of the Planning Proposal, as a condition of the Gateway Determination: flooding impacts (including filling and drainage), traffic, water and sewerage, bushfire hazard, acid sulfate soils, ecology, Aboriginal heritage and land contamination.

30 **Financial Implications**

If Council chooses to proceed with the Planning Proposal, it is able to recover the processing costs for an applicant-initiated LEP amendment. Council has already received an amount from the applicant to cover initial costs associated with preparing this Council report. If the Planning Proposal is to proceed through the Gateway Determination process then full cost recovery of the remaining stages will be required by Council. If the applicant chooses not to pay then the Planning Proposal will not proceed.

If Council chooses not to proceed then the matter does not incur any additional costs.

40 **Statutory and Policy Compliance Implications**

The relevant policy considerations are addressed above and in the attached Planning Proposal.

Report No. 13.14 PLANNING - Submissions Report - 26.2015.3.1 - Planning Proposal for Housekeeping General Policy Amendments to Byron LEP 2014

Directorate: Sustainable Environment and Economy

Report Author: Fiona Sinclair, Planner
Alex Caras, Team Leader Land Use Strategy

File No: I2016/792

Theme: Ecology
Planning Policy and Natural Environment

Summary:

This report presents the outcomes of the public exhibition of a Council initiated planning proposal to undertake a number of policy related 'housekeeping' amendments to *Byron Local Environmental Plan (LEP) 2014*.

Council initiated the planning proposal as part of its annual 'housekeeping' review of *LEP 2014*, to ensure the planning instrument is kept up to date and contains the planning controls desired by Council and the community.

The planning proposal (included as Attachment 1) describes eighteen separate and unrelated amendments to *LEP 2014*. Twelve of the amendments (Items A to L) involve changes to the written provisions in the LEP which are general in nature. The other six amendments (Items M to R) relate to specific land parcels and involve changes to the permissible uses on the land and/or changes to LEP maps.

The Planning Proposal received an initial Gateway determination from the Department of Planning and Environment on 2 November 2015. A revised Gateway was issued on 3 June 2016 following Council's request for an extension of time in order for additional technical studies and maps to be prepared, as required by the Gateway conditions.

The Planning Proposal was placed on public exhibition for a period of 14 days from 16 to 30 June 2016. Six public submissions were received during the exhibition period, in addition to submissions from the NSW Office of Environment & Heritage and NSW Rural Fire Service.

Of the six public submissions received:

- one was in support of Item J which proposes a new clause in the LEP to enable certain subdivision (sometimes referred to as a special purpose subdivision) to be approved on land zoned RU1 and RU2.
- one raised a matter unrelated to the planning proposal which can be addressed in the next round of 'housekeeping' LEP amendments.
- four were in objection to Item O (Jones Road, Wooyung).

Submissions to Item O

Item O proposes to make a dwelling house permissible with consent on a 5.3 hectare rural lot at Jones Road, Wooyung described as Lot 1 DP 394451. The subject land contains mapped 'high environmental value' (HEV) vegetation, two registered Aboriginal cultural heritage sites and it adjoins a nature reserve under the *National Parks and Wildlife Act*. The public submissions received in relation to Item O and the agency submission from the NSW Office of Environment & Heritage all raised concerns about the potential impacts of a future dwelling on the high biodiversity and Aboriginal cultural heritage values of the land.

Preliminary technical studies (in regards to Aboriginal Cultural Heritage, Potential Contaminated Land and Bushfire Hazard) were prepared to support the application for a dwelling entitlement on Lot 1 DP 394451. All indicate that the subject land is suitable for a dwelling house. The Contaminated Land and Bushfire Hazard reports were peer reviewed by Council staff who concur

with the findings. The Aboriginal Cultural Heritage Due Diligence assessment was reviewed by the NSW Office of Environment & Heritage who requested further information (refer Attachment 4).

5 In response to the comments received from the OEH and in the public submissions, staff requested further information in regards to bushfire protection. The additional information submitted (refer Attachment 5) sufficiently demonstrates that an indicative dwelling envelope with the required bushfire asset protection zones can be accommodated on Lot 1 DP 394451 Jones Rd, Wooyung, without unacceptable impacts on HEV vegetation or known Aboriginal cultural heritage sites. It is recommended that this additional information be included in the final planning proposal.

10 Further environmental assessments can be carried out at the development application stage, including a detailed flora and fauna survey and preparation of a vegetation management plan, to ensure the protection of HEV vegetation and threatened species and determine whether bushland restoration and/or compensatory plantings are required to mitigate any impacts from development of a single dwelling house on the land. On this basis there is no reason why a dwelling entitlement cannot be granted for Lot 1 DP 394451.

15 An amendment to the Lot Size Map is also required to enable a future development application for a dwelling house on Lot 1 DP 394451 to comply with Clause 4.2A 3(a) of LEP 2014 which states:

20 *(3) Development consent must not be granted for the erection of a dwelling house or a dual occupancy on land to which this clause applies unless the land:*
(a) is a lot that is at least the minimum lot size shown on the Lot Size Map in relation to that land

25 This report recommends that Council proceed with the planning proposal (as contained in Attachment 1) with two amendments, as follows:

- 30
1. Amend Item O in the planning proposal to include the following map change:
 - Amend map sheet 'LSZ_002' to change the minimum lot size for the RU2 zoned part of Lot 1 DP 394451 Jones Road, Wooyung from 40ha to 2ha.
 2. Insert the additional information received regarding Bushfire Protection for Lot 1 DP 394451 (refer Attachment 5) into 'Appendix 2 – Supporting Assessment Reports for Item O' of the planning proposal.

35 The Minister for Planning and Environment has issued an authorisation for Council to exercise delegation to make this LEP amendment should Council decide to proceed with it.

40 NOTE TO COUNCILLORS:

In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes of Council Meetings of Council's adopted Code of Meeting Practice (as amended) a Division will be deemed to have been called by the mover and seconder of all motions relating to this report.

RECOMMENDATION:

That Council:

1. **Make the following amendments to the planning proposal (Attachment 1):**
 - a) **Amend Item O in the planning proposal to include the following map change:**
 - **Amend map sheet 'LSZ_002' to change the minimum lot size for the RU2 zoned part of Lot 1 DP 394451 Jones Road, Wooyung from 40ha to 2ha.**

- b) **Insert the additional information received regarding Bushfire Protection for Lot 1 DP 394451 (refer Attachment 5) into 'Appendix 2 - Supporting Assessment Reports for Item O' of the planning proposal.**
2. **Forward the planning proposal (as amended) to the NSW Parliamentary Counsel's Office requesting that a draft LEP instrument be prepared.**
 3. **Liaise with Parliamentary Counsel's Office (PCO) as necessary to finalise the content of the draft LEP and to enable PCO to issue an Opinion that the plan can be made.**
 4. **Make the draft LEP under delegated authority and forward the plan to the NSW Department of Planning and Environment for notification on the NSW Government legislation website.**

Attachments:

- 1 Planning Proposal (public exhibition version), E2016/42116
- 5 2 Confidential - 26.2015.3.1 Submissions, E2016/67382
- 3 NSW Rural Fire Service submission, E2016/38932
- 4 NSW Office of Environment & Heritage submission, E2016/68212
- 5 Additional information for Item O regarding Bushfire Protection, E2016/76500

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Report

Background

At the Ordinary Meeting of 17 September 2015, Council considered a planning proposal to undertake eighteen separate amendments to *Byron Local Environmental Plan (LEP) 2014* and resolved to send the planning proposal to the NSW Department of Planning and Environment for Gateway Approval (**15-475**).

Council initiated the planning proposal as part of it's annual 'housekeeping' review of *LEP 2014*, to ensure the planning instrument is kept up to date and contains the planning controls desired by Council and the community.

The planning proposal (included as Attachment 1) describes eighteen separate and unrelated amendments to *LEP 2014*. Twelve of the amendments (Items A to L) involve changes to the written provisions in the LEP which are general in nature. The other six amendments (Items M to R) relate to specific land parcels and involve changes to the permissible uses on the land and/or changes to LEP maps.

The Planning Proposal received an initial Gateway determination from the Department of Planning and Environment on 2 November 2015. A revised Gateway was issued on 3 June 2016 following Council's request for an extension of time in order for additional technical studies and maps to be prepared, as required by the Gateway conditions.

Consultation

In accordance with the requirements of the Gateway determination, the planning proposal was placed on public exhibition for a period of 14 days from 16 to 30 June 2016. Six public submissions were received during the exhibition period and one late submission was received 18 days after the closing date.

The Gateway determination required Council to consult with the NSW Rural Fire Service and NSW Office of Environment & Heritage. The submissions received from these government agencies are included as Attachments 3 and 4 and are summarised below.

Government Agency Submissions

NSW Rural Fire Service (RFS)

The RFS raised no objections to the planning proposal proceeding and provided the following comment:

All future development applications, where located on mapped bush fire prone land(s), shall comply with the requirements of Planning for Bushfire Protection 2006.

NSW Office of Environment & Heritage (OEH)

The OEH made a number of recommendations which are summarised below. Staff have provided comments on the issues raised for Council's consideration:

OEH recommendation 1:

The OEH recommended inclusion of suitable controls in a Development Control Plan (DCP) to ensure adequate assessment of potential impacts on biodiversity, Aboriginal and historic heritage, NPWS estate, flooding and estuary management in relation to Items D, G, I, J, L, M and O in the planning proposal.

Staff response:

The issues raised will be considered when Council reviews it's shire-wide DCP. In the meantime DCP 2014 Chapter B2 – Preservation of Trees and Other Vegetation contains provisions to address vegetation removal and biodiversity protection.

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OEH recommendations 2 to 6:

In relation to Item O the OEH recommended that, prior to finalising the planning proposal, Council should:

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- consider and address the likely impacts (both direct and indirect) of a future dwelling on the adjoining Billinudgel Nature Reserve
- identify an area on the property for the dwelling entitlement which avoids harm to Aboriginal cultural heritage values
- prepare a Biodiversity Assessment to identify any areas of high environmental value and apply an E2 Environmental Conservation zone to protect such areas
- prohibit the keeping of dogs and cats on the subject land
- link a map to the amended Schedule 1 which stipulates a building envelope for the future dwelling house.

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Staff response:

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Council staff have undertaken a detailed review of the 1997 Commission of Inquiry (COI) for Environmentally Sensitive Lands in North Ocean Shores. The review found no documented reason(s) why Lot 1 DP 394451, Jones Road, Wooyung was not, and could not be, granted a dwelling entitlement at the same time as dwelling entitlements were granted to neighbouring lots (with very similar environmental attributes and site constraints) via Amendment 51 to Byron LEP 1988 (which implemented the COI findings). It has been concluded that this was simply a Council oversight at the time. Given this, Council has agreed to include the matter in its annual "housekeeping" planning proposal to correct errors identified in its LEP 2014.

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The landowner has submitted preliminary assessments in regards to Potential Contaminated Land, Aboriginal Cultural Heritage and Bushfire Hazard, as required by the Gateway determination. These preliminary studies all indicate that the land is suitable for residential purposes. The Contaminated Land and Bushfire Hazard reports were peer reviewed by Council staff who concur with the findings. The Aboriginal Cultural Heritage Due Diligence assessment was reviewed by the NSW Office of Environment & Heritage who requested further information (refer Attachment 4).

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In response to the comments received from the OEH and in the public submissions, staff requested further information in regards to bushfire protection. The additional information submitted (refer Attachment 5) sufficiently demonstrates that an indicative dwelling envelope with the required bushfire asset protection zones can be accommodated on Lot 1 DP 394451 Jones Rd, Wooyung, without unacceptable impacts on HEV vegetation or known Aboriginal cultural heritage sites. It is recommended that this additional information be included in the final planning proposal.

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Further technical studies (including a comprehensive Biodiversity/ Flora and Fauna Assessment can be undertaken at the development application (DA) stage.

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Any future DA for a dwelling will be required under s79(C) of the *Environmental Planning & Assessment Act 1979*, to consider the potential impacts (both direct and indirect) of the proposed development on the adjoining Billinudgel Nature Reserve and the Aboriginal cultural heritage and biodiversity values of the site and its locality.

The OEH also recommended that Council include a map in the planning proposal that identifies a building envelope for Lot 1 DP 394451, Jones Road, Wooyung and links to LEP 'Schedule 1 – Additional Permitted Uses'. However this would require more detailed technical studies and site surveys that are normally undertaken at the DA stage. Even if a 'survey accurate' building

envelope could be identified on the subject land, its inclusion in the LEP would be inconsistent with Section 117 Direction 6.3 – *Site Specific Provisions* which states (note the highlighted text):

(4) A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:

(a) allow that land use to be carried out in the zone the land is situated on, or

(b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or

(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

(5) A planning proposal must not contain or refer to drawings that show details of the development proposal.

Therefore this recommendation has not been supported by staff.

The subject land is zoned partly RU2 Rural Landscape and partly Deferred Matter under *Byron LEP 2014*. Most of the mapped High Environmental Value (HEV) vegetation present on the lot is located within the Deferred Matter area which retains its 7(k) Habitat zone under *Byron LEP 1988*. Residential development is prohibited within the 7(k) Habitat zone therefore siting of a dwelling will be limited to the RU2 zoned land - which is largely cleared. However there is a strip of HEV vegetation along the southern boundary of the site which is within the RU2 zone. This vegetation provides a buffer to the adjoining National Parks estate.

The OEH have flagged the risk that this strip of HEV vegetation could potentially be removed without consent, as part of Routine Agricultural Management Activities (RAMAs) or via the 10/50 Vegetation Clearing Code (for bushfire protection purposes) once a dwelling is constructed on the lot. The OEH have recommended that Council apply an E2 Environmental Conservation zone to protect this buffer and any other HEV vegetation, as part of the planning proposal.

Council will introduce the E2 Environmental Conservation zone into its LEP when it implements Section 117(2) Direction 2.5 – *Application of E2 and E3 zones and environmental overlays in Far North Coast LEPs*. Meanwhile conditions of development consent could provide protection of significant areas, if a future development application is lodged.

Finally, in response to OEH’s recommendation to prohibit the keeping of dogs and cats on the subject land, such restrictions are usually imposed at subdivision stage as a s88B instrument on the deposited plan/ land title. To be effective the restriction would generally be applied to all newly created lots in a particular locality. It would be inequitable for Council to retrospectively impose such a restriction on a single lot given that none of the neighbouring lots in close proximity to the Billinudgel Nature Reserve have this restriction in place. However Council has opportunity at the development application stage to apply positive covenants in regards to the keeping of domestic animals. Conditions of development consent require that dogs/ cats are appropriately fenced/ housed so they cannot cause harm to native wildlife. Therefore this recommendation will be considered at development application stage.

Public Submissions

Council received six public submissions during the exhibition period. The table below identifies the key issues raised in the submissions and includes staff comments for Council’s consideration.

Issues Raised	Staff Comment
<p>Objects to Item O and questions why the planning proposal seeks a dwelling entitlement for an individual land parcel, given that other landowners seeking a dwelling entitlement have been advised by Council to wait for the matter to be considered firstly via the LEP review process (preparation of LEP 2014) and later via the Rural Land Use Strategy (RLUS).</p> <p>The draft RLUS does not specifically address the matter of dwelling entitlements but states that a policy needs to be prepared. This matter keeps being consigned to the future which is very frustrating. The submission requests a whole of Council approach to resolving the issue of dwelling entitlements via a 'block' process.</p> <p>Planners North (Planning Consultant) – raises concerns about the erection of a dwelling house on Lot 1 DP 394451, Jones Road in terms of possible impacts on North Byron Parklands site and achieving compliance with DCP 2014 Chapter <i>B6 - Buffers and Minimising Land Use Conflict</i>.</p> <p>Objects to Item O and considers that a dwelling entitlement should not be granted for Lot 1 DP 394451 for the following reasons:</p> <p>The extreme bushfire risk. The only exit is via Jones Road. The <i>Far North Coast Bushfire Risk Management Plan</i> identifies the Jones Rd ridgeline as 'Catastrophic'. There have been several previous bushfires where residents of Jones Road have been evacuated, including the fire in 2004 which the NSW Minister declared a s44 State of Emergency. The existing two houses at the end of Jones Rd were built in the 1950s-60s. Since then the bushfire risk has increased due to regrowth of the understorey and maturing of the trees.</p> <p>The increased vehicle movements on Jones Road and heavy vehicles during construction will impact the environment and the amenity of neighbours.</p>	<p>Lot 1 DP 394451 has been included in Council's annual 'housekeeping' planning proposal for the specific reasons outlined in this report.</p> <p>Noted</p> <p>Lot 1 DP 394451 is located a distance of approximately 550 metres to the east of the North Byron Parklands which is a potential noise source (music festivals/ events). A site specific determination in regards to the provision of setbacks and/or buffers to minimise land use conflicts, can be made at development application stage. Where the required buffer distances cannot be met, the dwelling design can incorporate appropriate noise mitigation measures.</p> <p>A Bushfire Hazard Assessment for Lot 1 DP 394451 was submitted and has been assessed by Council staff and the NSW Rural Fire Service who are satisfied that future development of a dwelling can provide the necessary measures (eg. APZs, water supply, access, materials) to comply with the requirements of Planning for Bushfire Protection 2006.</p> <p>Conditions of development consent will require environmental protection measures during construction.</p>

BYRON SHIRE COUNCIL

Issues Raised	Staff Comment
<p>The proposal is contrary to Clause 4.2A Erection of dwelling houses and dual occupancies on land in certain rural zones, in Byron LEP 2014 as there is no lawfully erected dwelling house on the land nor is the proposed dwelling to replace an existing dwelling house.</p>	<p>The recommended amendment to the Lot Size Map for Item O, will enable a dwelling house to be permitted with consent on Lot 1 DP 394451 to comply with Clause 4.2A 3(a) of LEP 2014.</p>
<p>The zoning of part of the lot to RU2 Rural Landscape under LEP 2014 is contrary to the findings of the 1997 Commission of Inquiry which recommended the land be zoned 7(k) Habitat (cross hatched) under BLEP 1988 due to its habitat and wildlife corridor values.</p>	<p>The land use zoning under LEP 2014 was informed by the 2008 Byron Shire Local Environmental Study and Council's High Conservation Value vegetation mapping, both of which provided a more current assessment of the sites environmental values. Other land within the 7(k) zone was given a dwelling entitlement under the 1997 Commission of Inquiry.</p>
<p>Potential impacts on registered Aboriginal cultural heritage sites and the Billinudgel Nature Reserve.</p>	<p>Any future development application will be required to consider and address the potential impacts on Aboriginal cultural heritage, biodiversity and the adjoining Billinudgel Nature Reserve under Part 4 Division 4 Section 79C of the EP&A Act 1979.</p>
<p>Clearing of vegetation has occurred since the land was rezoned to RU2 under LEP 2014. There is no previous history of clearing. There has been no history of agriculture on the land (as observed for the past 37 years) so recent clearing is not justifiable under RAMAs.</p>	<p>Suspected illegal clearing on rural lands can be reported to North Coast Local Land Services who administer the Native Vegetation Act.</p>
<p>If a dwelling entitlement is granted, any future development application needs to address : no dogs/ cats; impacts on koalas and other threatened flora/ fauna; impacts on road surface Jones Rd.</p>	<p>See comments relating to submission from NSW Office of Environment & Heritage above.</p>
<p>The significance of the Jones Rd wildlife corridor is identified in the <i>Far North Coast Regional Conservation Plan 2000</i>.</p>	<p>Noted. The majority of the HEV vegetation on the land is within the Deferred Matter area and retains its 7(k) Habitat zone under LEP 1988. Conditions of development consent can potentially provide protection of vegetation in rural zones.</p>
<p>The proposal is inconsistent with the objectives of the RU2 Rural Landscape zone, under LEP 2014, as it does not protect significant scenic landscapes and minimise impacts on the scenic quality of the locality.</p>	<p>Any future development application will be required to consider the objectives of the RU2 Rural Landscape zone and address the potential impacts on Aboriginal cultural heritage, biodiversity and the adjoining Billinudgel Nature Reserve under Part 4</p>

Issues Raised	Staff Comment
<p>The proposal is inconsistent with Part 3 Clause 3.3 of LEP 2014 as it is an environmentally sensitive area with high biodiversity and Aboriginal cultural heritage significance.</p>	<p>Division 4 Section 79C of the EP&A Act. Part 3 Clause 3.3 of Byron LEP 2014 provides that “Exempt or complying development must not be carried out on any environmentally sensitive area”. Any future development on the subject lot will be subject to a development application.</p>
<p>There are likely to be impacts on critical habitat or threatened species, their populations or ecological communities or their habitats.</p>	<p>A dwelling will be sited within the RU2 zoned land which has been previously cleared. At development application stage, a detailed Flora and Fauna survey can be carried out to identify whether threatened species, endangered ecological communities and/or their habitats are present on the land and, if so, a Vegetation Management Plan prepared to ensure their protection.</p>
<p>The planning proposal is inaccurate as it is a major (not minor) amendment to the land use table to allow a dwelling on land that has been previously protected, adjoins the Nature Reserve and has laid dormant for at least several decades.</p>	<p>The land is partly zoned RU2 Rural Landscape, under LEP 2014. A dwelling house is among the land uses permissible with development consent in this zone.</p>
<p>The planning proposal is inaccurate in stating that the subject land is at the end of Jones Road as it is not.</p>	<p>Noted. Jones Road extends as a paper road (unformed road) to the east of the subject lot.</p>
<p>The planning proposal will alter the dwelling density in this location which is inconsistent with s117 Direction 1.2 – <i>Rural Zones</i>. This inconsistency is unjustifiable.</p>	<p>The s117 Direction 1.2 – <i>Rural Zones</i> provides that a planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. This planning proposal does not involve a residential rezoning of the land.</p>
<p>The proposal is inconsistent with section D2.2.1 – Location and siting of residential accommodation and other buildings, of DCP 2014.</p>	<p>D2.2.1 of DCP 2014 will be considered at the development application stage in light of the information provided in further technical studies.</p>
<p>Inconsistent with guiding principle (v) of DCP 2014 that existing habitat areas are identified, protected and enhanced.</p>	<p>The applicable guiding principles of DCP 2014 will be considered at development application stage in light of the further environmental assessment and technical information submitted.</p>
<p>Inconsistent with DCP 2014 in that a 55 metre setback from a rural road (Jones Rd) cannot be achieved.</p>	<p>An appropriate building setback will be determined at development application stage in light of the further environmental assessment and technical information submitted.</p>

Issues Raised	Staff Comment
<p>The proposal is inconsistent with <i>D2.2.3 Character and Visual Impact</i> of DCP 2014. A dwelling built on the ridgetop adjacent to the nature reserve and visible from a public road will not be respecting and complementing the natural environment and contributing to the rural and scenic character of the locality.</p>	<p><i>D2.2.3</i> of DCP 2014 can be considered at development application stage in light of the information provided in the further technical studies.</p>
<p>There is potential for effluent run off to impact the Billinudgel Yelgun catchment, SEPP 14 Wetlands and Billinudgel Nature Reserve.</p>	<p>The details of an on-site sewerage management system and the potential impacts on water quality can be considered at development application stage.</p>
<p>This submission is in support of Item J which proposes a new clause in the LEP to enable certain subdivision (sometimes referred to as a special purpose subdivision) to be approved on land zoned RU1 and RU2.</p>	<p>Noted.</p>

One late submission was received (18 days after the exhibition closing date) which raised the issue of procedural fairness in the granting of dwelling entitlements in Byron Shire, in regards to Item O.

- 5 The Minister for Planning and Environment has issued an authorisation for Council to exercise delegation to make this LEP amendment should Council decide to proceed with it.

Recommendation

10 It is recommended that Council proceed with the planning proposal (as contained in Attachment 1) with two amendments, as follows:

1. Amend Item O in the planning proposal to include the following map change:
 - Amend map sheet 'LSZ_002' to change the minimum lot size for the RU2 zoned part of Lot 1 DP 394451 Jones Road, Wooyung from 40ha to 2ha.
- 15 2. Insert the additional information received regarding Bushfire Protection for Lot 1 DP 394451 (refer Attachment 5) into 'Appendix 2 – Supporting Assessment Reports for Item O' of the planning proposal.

20 **Financial Implications**

As a Council initiated planning proposal the administration cost has been met by Council. The cost of the preliminary technical studies in support of Item O in the planning proposal have been borne by the landowner.

25 **Statutory and Policy Compliance Implications**

Council has followed the statutory process to amend Byron LEP 2014 through this planning proposal. Council should now decide whether to proceed to finalise the planning proposal, either with or without amendments.

Report No. 13.15 **Enterprising Byron 2025 - Strategy and Action Plan**
Directorate: Sustainable Environment and Economy
Report Author: Jane Laverty, Economic Development and Tourism Coordinator
File No: I2016/795
5 **Theme:** Economy
 Economic Development

Summary:

10 Byron Shire Council has taken an important leadership role in facilitating sustainable economic development outcomes for its community. The development of Enterprising Byron 2025, a strategy aimed at creating a resilient and diverse economy providing for the community in a sustainable manner, has been a collaborative outcome.

15 The strategy has focused on leveraging the Shire’s economic development strengths and opportunities to accelerate employment and work for its residents, build resilient communities and community capacity and position the Shire for investment attraction for enterprise and enabling infrastructure.

20 This report seeks final endorsement of Enterprising Byron 2025, the Strategy and Action Plan, for implementation in partnership with the local community, business and industry, regional stakeholders and State and Federal government agencies.

RECOMMENDATION:

That Council endorse Enterprising Byron 2025, the Strategy and Action Plan for implementation.

Attachments:

- 30 1 Enterprising Byron 2025 - August 2016 no graphic design, E2016/75027
2 ACTION PLAN - Enterprising Byron 2025, E2016/75028

Report

5 The Byron Shire Economic Development Strategy, *Enterprising Byron 2025* promotes a vision that will set the tone for decision making, entrepreneurship and leadership for the Byron Shire economy over the next 10 years – our vision is for

a resilient and diverse economy providing for our community in a sustainable manner

10 The Strategy focus is to leverage the strengths and opportunities that come from Shire’s value proposition including a strong brand position for sustainable and innovative practices, existing industry sectors such as tourism, creative industries and food production and emerging sectors such as knowledge economy and renewable energy enterprise.

Byron Shire is currently largely reliant on the visitor economy to sustain jobs and employment, and there is a significant multiplier effect throughout the economy from this industry sector.

15 However, overall the Byron Shire employment data shows trends of high casual employment and lower income levels. Statistics also show a high level of under employment and high youth unemployment. This paradigm will lead to challenges in affordable housing and health and wellbeing for local residents.

The opportunities for the Byron Shire to generate employment and create work over the next 10 years will come from strengthening the localisation of employment and fostering innovation across all business and industry sectors. It is time for Byron’s entrepreneurial culture to shine.

20 **Strategy objectives**

Enterprising Byron 2025, aims to deliver on three key objectives for the Byron Shire economy:

1. Accelerate employment generation and work creation,
2. Create resilient communities and build community capacity and
3. Retain and attract industry and private/public investment.

25 **Guiding Principles**

Enterprising Byron 2025 has been developed with a mindfulness of four guiding principles that clearly represent the sentiment of community and the desire to hold true to community values.

1. Leverage and enhance Byron’s strengths and our emerging opportunities
2. Sustain our sense of place, maintaining the integrity of our people and our brand
- 30 3. Create economic enablers and support sustainable practices
4. Show leadership, work cooperatively and seek out collaborative partnerships

Strategy Directions

Enterprising Byron 2025 has nine strategies designed to deliver on the objectives:

1. Foster local business/employer retention and expansion
- 35 2. Nurture entrepreneurship and innovation for work creation
3. Develop industry access to new and expanding markets
4. Develop the full potential and capacity of Byron’s towns, villages and rural lands
5. Facilitate partnerships with Council and other Government agencies
6. Activate workforce development, skills and training for future needs
- 40 7. Promote an attractive investment environment
8. Secure industry competitive and comparative advantage
9. Guide and inform investment with good decision making resources

Strategies, flagship projects and activities

45 Each of the nine strategic directions are delivered through a Flagship project or program and associated activities as well as a unique strategy delivery platform comprising of an attitudinal strategy, institutional strategy and place based strategy.

Partnerships, measurement and evaluation

Enterprising Byron 2025 is underpinned by a partnerships and collaboration philosophy with key partners identified for each of the flagship projects and programs. Regular evaluation of the strategy and progress towards meeting objectives along with a review of the economic performance measures should be undertaken consistently and regularly to evolve actions.

Continued collaboration and partnerships

Enterprising Byron 2025 will require continued engagement and the development of partnerships and collaboration with a range of key stakeholders in its implementation program. During the development and draft phase of the Strategy a range of stakeholders have been engaged including:

- a) Chambers of Commerce
- b) Progress Associations and broader community
- b) Business and industry leaders
- c) State Government agencies and other regional stakeholders
- d) Councillors and the Sustainable Economy Committee

However given the expanse of Strategy content and diversity of stakeholders, and their interest, it is clear that an ongoing dialogue will be necessary to provide a positive and proactive level of support to the implementation of the Strategy and staff look forward to this collaborative approach.

Staff met with stakeholders for one on one conversations and group conversations to discuss the draft strategy and action plan with excellent input and genuine thought leadership.

The final Strategy version and Action Plan

Feedback from key stakeholders during the draft stage highlighted the need to differentiate and expand the list of existing industry and emerging industry priorities, which has led to the inclusion of both non-food based agriculture and environmental industries such as renewable energy and circular economy enterprise to be include in the suite of industry development plans.

Feedback also suggested that investment attraction should also clearly target renewed infrastructure investment from Government agencies, in addition to industry investment and include a focus on technology and transport infrastructure as critical enablers for the knowledge economy and youth employment.

Implementation

Council's 2016/17 budget allows for funds to initiate Strategic Direction 1 with \$20,000 allocated towards the Byron Shire Business Retention and Expansion Survey in partnership with local Chambers of Commerce. The 2016/17 budget also provides funds to support Strategic Direction 9 with the continuation of the Byron Data Dashboard products; id profile, id economy and id social atlas. Also resolved in 2016 and included in the 2016/17 budget is funds for the Byron Bay Town Centre Placemaking Seed Fund which will contribute to the delivery of Strategic Direction 4 to develop the full potential of towns, villages and rural lands. It is important to note that this investment from Council will actually deliver around \$400,000 of project value on ground.

Funding support of \$50,000 has been secured through a partnership with the NSW Department of Industry to progress Strategic Direction 8, specifically related to advancing the Byron region food economy, enhancing the supply chain and industry capability, under the Byron Region Food Advantage project title.

Funding has also been secured through Destination NSW's Regional Visitor Economy Fund (\$120,000) that will contribute to the delivery of Strategic Direction 3 to develop industry access to new and expanding markets. In this instance the project funds will support the visitor economy under the project title, 'Conferencing Byron' in partnership with local industry stakeholders, who have contributed matching funds, and will establish the Byron Events Bureau.

Council's Economic Development & Tourism team have aligned work plans with the delivery of *Enterprising Byron 2025* and a focus on securing partnerships and collaboration on all projects.

Financial Implications

5 Implementation of the Strategy will rely on a commitment from existing staff resources and project budget allocations and where possible matching funds from government grants as well as industry partnership funding and other funding sources identified when available to accelerate project delivery.

Statutory and Policy Compliance Implications

10 Nil

Report No. 13.16 **PLANNING - Development Application 10.2015.686.1 - Subdivision to create twenty-four (24) residential allotments, a public reserve, a residual allotment, associated roads and infrastructure - Tuckeroo Avenue, Mullumbimby**

5 **Directorate:** Sustainable Environment and Economy
Report Author: Paul Mills, Senior Planner
 Chris Larkin, Major Projects Planner

File No: I2016/800
Theme: Ecology
10 Development and Approvals

Proposal:

DA No: 10.2015.686.1

Proposal: Subdivision to create twenty-four (24) residential Lots, a public reserve, associated roads and infrastructure works

Property description: LOT: 80 DP: 1202269
 Tuckeroo Avenue MULLUMBIMBY

Parcel No/s: 267616

Applicant: Bayview Land Development Pty Ltd

Owner: Gainsplay Pty Ltd

Zoning: Part R2 Low Density Residential Zone / Part RU1 Primary Production Zone / Part RU2 Rural Landscape Zone (LEP 2014) / Part 1(a) General Rural Zone (LEP 1988)

Date received: 9 November 2015

Integrated Development: Yes (Section 100B of the Rural Fires Act 1997)

Public notification or exhibition:

- Level 2 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications
- Exhibition period: 3/12/2015 to 16/12/2015
- Submissions: One (1)

Other approvals (S68/138): Roads Act (51); Stormwater (55); Water & Sewer (60)

Planning Review Committee: Not applicable

Delegation to determination: Meeting of Council

Issues:

- Koala habitat protection
- Consistency with the adopted Tallowood Ridge Estate Concept Plan and the adopted Biodiversity Conservation Management Plan
- Earthworks depth of proposed excavation and fill
- Bush fire prone land
- Flood prone land
- Land dedication for a riparian public reserve (planting and restoration area).

Summary:

Development Consent is sought for the construction of Stage 5 of the Tallowood Ridge Estate which includes:

- 5 • 24 lot residential subdivision (over 2 stages of construction);
- public reserve land dedication for riparian plantings and restoration (area 5120m²);
- a residual allotment (area 42.3 hectares);
- bulk earthworks (cut and fill);
- 10 • dedication of roads, and
- street landscaping and related civil infrastructure.

15 In response to the public notification process, one (1) submission was received in relation to impacts on existing native vegetation and weed management. No vegetation is proposed for removal, however works are proposed in close proximity to existing trees. The applicant has submitted an Arborist Report considering the impact of the development on this vegetation (existing Tallowood and Brush Box trees). A condition has been included to require tree preservation measures being undertaken in accordance with *AS 4970-2009 – Protection of Trees on Development Sites* during the construction period, whilst land is to be dedicated for riparian plantings and restoration as part of the development.

20 The proposed development is considered to satisfy the relevant environmental planning instruments and development control plans for the site, and is consistent with the Staged Development Consent for “Tallowood Ridge Estate”. The development is recommended for consent subject to conditions.

25 NOTE TO COUNCILLORS:

30 In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes of Council Meetings of Council’s adopted Code of Meeting Practice (as amended) a Division will be deemed to have been called by the mover and seconder of all motions relating to this report.

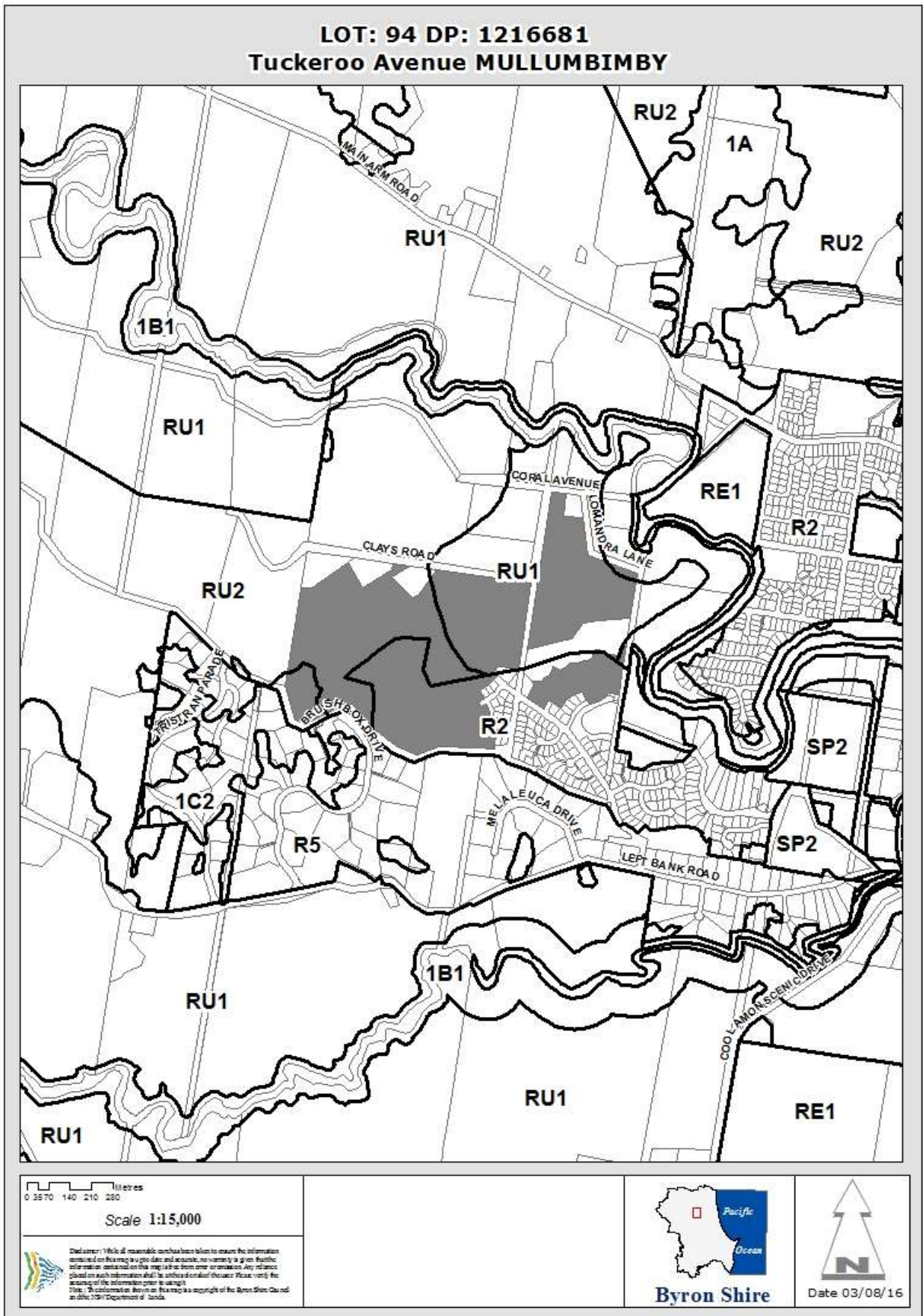
RECOMMENDATION:

That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2015.686.1 for Subdivision to create twenty-four (24) residential allotments, a public reserve, associated roads and infrastructure, be granted consent subject to the recommended conditions listed in Attachment 2 #E2016/72991.

35

Attachments:

- 1 Proposed Plans subdivision 10.2015.686.1, E2016/75634
- 2 Conditions of Consent 10.2015.686.1, E2016/72991
- 40 3 Confidential - Submission 10.2015.686.1, E2016/76536



Assessment:**1. INTRODUCTION****5 1.1 History/Background**

Previous applications for the site include:

10 **DA 10.2009.314.1** for a staged development under Sections 83A to 83D of the Environmental Planning and Assessment Act 1979 was refused by Council on 12 November 2009. The proposed development comprised a subdivision of approximately 240 lots and a range of infrastructure with a detailed development application for Stage 1 comprising 31 lots.

15 Prior to the determination of the Development Application, an appeal was lodged with the NSW Land & Environment Court against the deemed refusal of the proposal. The Court issued consent orders for a staged subdivision of the site with the first stage comprising 29 residential allotments. The first stage has been constructed and the lots registered.

20 **Section 96 Applications for 10.2009.314.1** have been granted over the past seven years. The most recent being Section 96 application reference 10.2009.314.10 on 13 June 2016 was approved to alter the open space, staging, roads, bikeways, rehabilitation areas, residential density and relocation of a potential commercial site.

25 **Development Application 10.2011.117.1 - Stage 2** Tallowood Ridge Estate was granted consent on 4 April 2012 for a subdivision comprising 28 residential allotments and associated civil infrastructure and access roads.

30 **Development Application 10.2013.549.1 - Stage 3** Tallowood Ridge Estate was granted consent on 6 February 2014 for Subdivision to create 31 residential allotments, 1 residual allotment, roads, a stormwater detention basin, landscaping and related infrastructure works.

35 **Development Application 10.2015.79.1 - Stage 4A** Tallowood Ridge Estate was granted consent on 25 November 2015 for Subdivision to create 13 residential allotments, public reserves and associated infrastructure works.

Development Application 10.2016.161.1 - Stage 4B Tallowood Ridge Estate application was lodged with Council 21 March 2016. The application is yet to be determined due to outstanding matters associated with flooding.

40 1.2 Description of the site

45 The proposed development site is legally described as Lot 94 DP 1216681 and has an area of approximately 49 hectares. The property is the residual allotment created following the completion and registration of existing residential stages within the Tallowood Ridge Estate. Figure 1 below shows the location of proposed Stage 5.

50 The proposed development area comprises generally cleared land with sloping topography falling towards the north and Tallowood Creek. Native trees and vegetation exist along the ridgeline adjacent to the southern boundary. A large existing Tallowood tree and a number of smaller Tallowood trees are also located immediately to the northern-west of the development area.



Figure 1 - Location of Stage 5 shown in blue

1.3 Description of the proposed development

5

Development Consent is sought for the construction of Stage 5 of the Tallowood Ridge Estate which includes:

10

- 24 lot residential subdivision (over 2 stages of construction);
- a public reserve land dedication for riparian plantings and restoration (area 5120m²);
- a residual allotment (area 42.3 hectares);
- bulk earthworks (cut and fill);
- dedication of roads, and
- street landscaping and related civil infrastructure.

15

Residential Allotments

The residential lots range in size from 482sqm (Lot 115) to 747sqm (Lot 120), with an average lot size of 588sqm. The proposed residual Lot is to have an area 42.3 hectares post dedication of the sports field and riparian revegetation areas.

20

Construction

Construction of the proposed subdivision is to occur in two stages as follows:

25

- A. Five (5) residential allotments.
- B. Nineteen (19) residential allotments and a public reserve allotment.

Overall subdivision works include:

30

- earthworks to re-contour the site;
- boxing out and construction of roads;
- installation of water, sewer and drainage underground reticulation;
- laying of conduits for electricity and NBN; and

- pavement construction and landscaping.

Roads

Cockatoo Crescent and Lorikeet Lane are to be extended and other new roads and a cul de sac are to be constructed to service the new residential lots.

5



Figure 2 - Proposed plan of subdivision (shown in red) and new road connections

10 **Public Reserve (riparian rehabilitation)**

Consistent with the adopted Concept Plan, Stage 5 has an associated riparian planting and restoration area to be established. This land is also proposed to be dedicated as public reserve. The area of the land dedication for riparian planting and restoration is 5120m² (proposed Lot 130). The location of the proposed riparian reserve can be seen in **Figure 2**.

15

Open Space and Landscaping

Street landscaping is proposed in each of the road reserves, whilst on the southern side of Road 2 (Cockatoo Crescent) a landscaped shelter belt similar to that created in previous stages is to be planted.

20

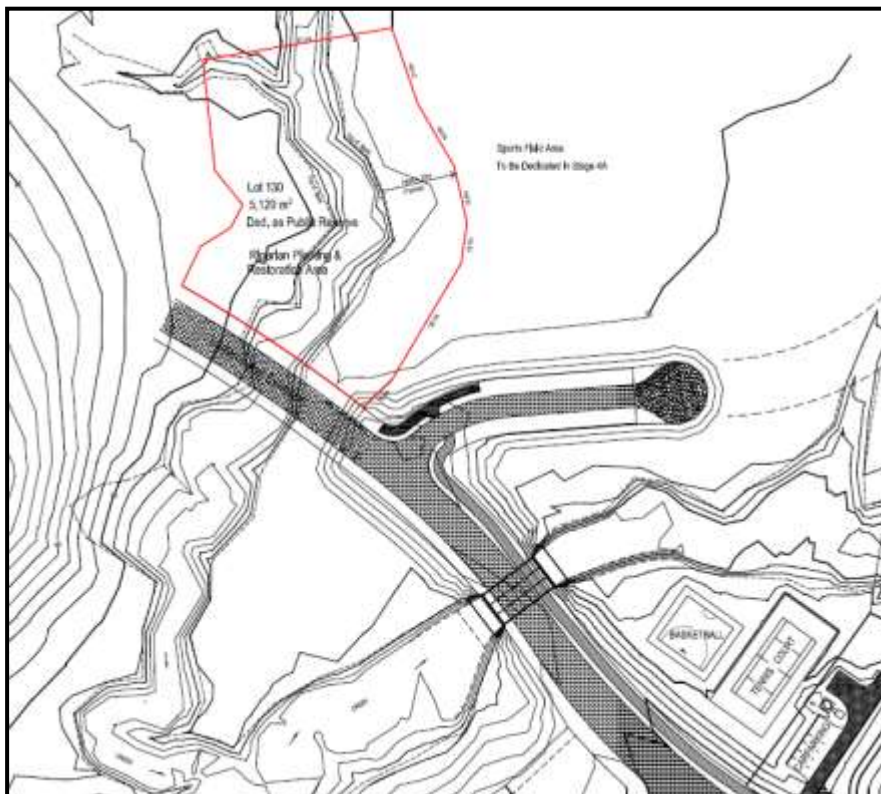


Figure 3 - Location of proposed public reserve on northern side of the extension to Tuckerroo Avenue

5 **2. SUMMARY OF GOVERNMENT/EXTERNAL REFERRALS**

The application was considered by Council’s Development Engineer, Ecologist, Environmental Officer, ET Engineer, Section 94 Officer, and Water and Sewer Officer and where necessary conditions of consent have been included as recommended by these officers. The application also sought Integrated Development Approval from the NSW Rural Fire Service which is discussed in Section 2.1 of this report.

2.1 Integrated Development – Section 100B of Rural Fires Act 1997

15 In accordance with Clause 91(1) of the Environmental Planning and Assessment Act 1979, the application was referred to the Rural Fire Service (RFS) to obtain a Bush Fire Safety Authority pursuant Section 100B of the Rural Fires Act 1997.

20 The RFS in correspondence dated 2 August 2016 issued a Bush Fire Safety Authority and advised as follows:

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

- 25 1. *The development proposal is to comply with the subdivision layout identified on the drawing prepared by CivilTech Consulting Engineers titled 'Stage 5 Subdivision Plan' (ref: Dwg No. 1002-DA31 - Issue E), dated 29 July 2016, except as modified by the following conditions.*

Asset Protection Zones

30 *The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:*

2. At the issue of subdivision certificate and in perpetuity, each of the residential lots shall be managed as an inner protection area (IPA) 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'.

5

3. At the relevant stage of subdivision, a restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed on the residue lot requiring the provision of asset protection zones (APZ) as indicated below.

10

The APZ shall be managed 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'.

Stage 5A:

- 12 metres to the north of Lot 104; and
- 12 metres to the west of Lots 104 to 108 and to the south of Lot 108.

15

Stage 5B:

- 12 metres to the north of Lots 116 to 120;
- 10 metres to the north-west of Lot 120
- 33 metres to the west of Lots 125 to 127; and
- 21 metres to the south-west of Lot 125

20

Any restriction to land use for the purpose of an asset protection zone over the residue lot during staged release of the subdivision may be extinguished upon commencement of development of a subsequent stage over the affected areas.

Water and Utilities

25

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

30

4. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

35

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

5. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

40

General Advice – consent authority to note

Any future development application lodged within this subdivision under section 79BA of the 'Environmental Planning & Assessment Act 1979' will be subject to requirements as set out in 'Planning for Bush Fire Protection 2006'.

45

2.2 Section 83D - Status of staged development applications and consents

In accordance with Section 83D(2) of the Act the proposed development must be consistent with staged development consent 10.2009.314 which is in force at the time of writing this report. Section 83D(2) specifies:

50

83D Status of staged development applications and consents

(2) While any consent granted on the determination of a staged development application for a site remains in force, the determination of any further development application in respect of that site cannot be inconsistent with that consent.

55

Following a review of the approved concept plan details (Council ref 10.2009.314) it is considered that subject to conditions the proposed plans are generally consistent. Condition No.5 of the Staged Development Consent specifies as follows:

5

5) Phasing of Development

The development must be carried out in 7 separate stages as described on Plan 6.1 – Stages Plan of the ‘Future Concept Proposals’ document, and occur in the following order:

Stage	Works comprised within stages as shown on Plan 6.1 – Stages Plan
1	‘Stage 1’ and ‘Stage 1 Plantings and Restoration’
2	‘Stage 2’ and ‘Stage 2 Plantings and Restoration’
3	‘Stage 3’; ‘Stage 3 Plantings and Restoration except as modified by DA 10.2009.151.3’; Basketball and Tennis Court as approved by DA 10.2009.151.3 and ‘New Bikeway’ as generally shown within Plan 8.1 – Proposed Road and Bikeway Systems of the ‘Future Stages Concept Proposals’ document.
4	‘Stage 4’ ‘Sports Field as approved in DA 10.2009.151.3’; access road and temporary turning area, car parking and extension of road though to Clays Road” and ‘Stage 4 Plantings and Restoration’.
5	‘Stage 5’ and ‘Stage 5 Plantings and Restoration’ and ‘New Bikeway’ along ridgeline to link Stage 3 with Brushbox Drive (as generally shown within Plan 8.1 – Proposed Road and Bikeway Systems of the ‘Future Stages Concept Proposals’ document)
6	‘Stage 6’; ‘Stage 6 Plantings and Restoration’; and ‘Stage 6 Flood-free gravel track to Clays Road’
7	‘Stage 7’ and ‘Stage 7 Plantings and Restoration’

10 *Bike ways shown within Plan 8.1 must be completed as part of the corresponding stage as shown within Plan 6.1 with the exception that a bike way link must be provided to the sports fields as part of Stage 3. The ‘Sports Fields’, bike ways and the ‘Plantings and Restoration’ areas may be completed in an advanced order to the nominated staging but must not occur any later than the specific stages in which they are nominated.*

15 Having regard to the order of subdivision contained within Condition No.5 of the Staged Development Consent, Stage 4 of the subdivision is to be undertaken prior to Stage 5. At the time of writing this report a development application for Stage 4B has been lodged with Council and is currently under assessment. It is understood the applicant is currently preparing a flood study for Stage 4B and this is causing a delay in progressing that application. Notwithstanding this, the required works under Stage 4 have been completed enabling Stage 5 to be considered.

20 Development Consent 10.2009.314 also requires the proposed development to accord with the approved document entitled ‘**Future Stages Concept Proposals’ (concept plan)**. The following matters of relevance to proposed Stage 5 are noted:

25 **Section 9 Subdivision Pattern**

Section 9 of the approved ‘*Future Stages Concept Proposals*’ document specifies, in part:

30 *“The Schematic Subdivision Layout Plan provides for a variety of lot types and titling approaches, as follows:*

- *The conventional lots have an area between 550 and 1200m² and will be subdivided as Torrens Title lots; and*
- *A sprinkling of small lots will have an area of approximately 425m² and will be subdivided as Torrens Title lots.”*

5 The proposed smallest lot size has an area of 482m² (Proposed Lot 115). The proposal is considered to be consistent with the minimum lot size provisions within Section 9. It is also noted that the proposed road configuration is different to the broken line shown in Plan 6.1B Stages Plan (See **Figure 1**). It also considered that this proposed variation to the draft road layout is not
10 considered to be ‘antipathetic’ to Staged Development Consent 10.2009.314.

Section 15.1 Provision of Open Space its Function and Landscaping

Section 15 specifies the following matters for Tallowood Creek Park:

Tallowood Creek Park

"Tallowood Creek Park" will be informal and meandering in layout and will benefit from a relaxed structure. It will be planted with indigenous trees and bird-attracting shrubs that thrive in the riparian zone environment, and will have interpretive information signs posted along the pathway describing species of trees and shrubs planted along the creek.

The park will provide several creek-side picnic tables spread out along the creek. The pathway along the creek will also provide the additional function of capturing (in surface inlet pits located in depressions along the pathway) the stormwater runoff from the backyards of the adjoining allotments and piping it to the nearest stormwater treatment basin.”

The applicant has proposed to dedicate the land adjacent to the banks of Tallowood Creek as public reserve. Conditions have been included to require this dedication following the completion of riparian revegetation and restoration works.

2.3 Section 5A Significant effect on threatened species, populations or ecological communities, or their habitats

Council’s Ecologist has considered the proposal against the provisions of Section 5A of the Environmental Planning and Assessment Act 1979 having regard to one Endangered Ecological Community and four threatened fauna species. The proposal as considered is unlikely to have a significant effect on a threatened species, population or ecological community.

3. SECTION 79C – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES

Having regard for the matters for consideration detailed in Section 79C(1) of the Environmental Planning & Assessment Act 1979, the following is a summary of the evaluation of the issues.

3.1. STATE/REGIONAL PLANNING POLICIES AND INSTRUMENTS

Applicable Policy	Proposed	Complies
<p>State Environmental Planning Policy No. 71 – Coastal Protection</p> <p>Council must have regard for the matters of consideration under Parts 2 and 8 of SEPP No. 71 when assessing development within the coastal zone. These matters include:</p> <ul style="list-style-type: none"> – retention of existing public access to the coastal 	<p>The proposed development will not compromise any of the applicable provisions of SEPP No.71. The proposal shall not restrict access to the foreshore of the Main Arm of the Brunswick River.</p> <p>Development Consent</p>	<p>Yes</p>

BYRON SHIRE COUNCIL

Applicable Policy	Proposed	Complies
<p>Foreshore</p> <ul style="list-style-type: none"> - impact of effluent disposal on water quality - development must not discharge untreated stormwater into a coastal water body 	<p>10.2009.314 granted Staged Development consent for the subdivision of the subject land meeting the requirements for a master plan (DCP) required by Clause 18(d) of SEPP No.71.</p>	
<p>State Environmental Planning Policy No.44 - Koala Habitat Protection</p> <p>Council must determine if the land is a <i>potential koala habitat</i> (feed tree species constitute at least 15% of the trees in the upper or lower strata of the tree component) or, Where land has been identified as is a <i>potential koala habitat</i> Council must determine if the land is a <i>core koala habitat</i>. or, Where land has been identified as <i>core koala habitat</i>, development must not be inconsistent with the koala plan of management.</p>	<p>Council's Ecologist has advised the site of Stage 5 may represent potential koala habitat but core koala habitat has not been demonstrated. The applicant has submitted an Arborist Report considering the impact of the development on existing Tallowwood and Brush Box trees.</p> <p>Conditions have been included to protect koala food trees and fencing provisions for dogs.</p>	<p align="center">Yes</p>
<p>State Environmental Planning Policy No.55 - Remediation of Land</p> <p>Contamination and remediation to be considered in determining development application</p> <p>(1) A consent authority must not consent to the carrying out of any development on land unless:</p> <p>(a) it has considered whether the land is contaminated, and</p> <p>(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and</p> <p>(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.</p>	<p>Council's Environmental Officer has previously noted that the staged development consent (Concept Plan approval 10.2009.314.1) has considered and allowed for residential development of the subject land in view the requirements and matters for consideration provided within SEPP No.55.</p> <p>The subject land is considered to be suitable for the proposed development without need for a detailed investigation. The recent land use history does not indicate any activities which are likely to have caused site contamination.</p>	<p align="center">Yes</p>
<p>NSW Coastal Policy 1997</p> <p>Compliance with <i>NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast</i>, as published by the Government.</p>	<p>The subject site is located within 1km landward of the tidal waters of the Brunswick River and is subject to the provisions of the NSW Coastal Policy. The proposed development is considered to be consistent with the Goals, Objectives and Strategic Actions of the NSW Coastal Policy 1997.</p>	<p align="center">Yes</p>

Applicable Policy	Proposed	Complies
	The proposed development is considered to be satisfactory with regard to the provisions of NSW North Coast Design Guidelines.	
Disability Access (DDA) Access for persons with disabilities and integration into surrounding streetscapes without creating barriers. (Council Res.10-1118)	The proposed development is considered to be consistent with the DDA.	Yes
Building Code of Australia The proposal must be capable of compliance with the structural and safety requirements of the Building Code of Australia.	The proposed development is capable of satisfying the requirements of the Building Code of Australia.	Yes

3.2. BYRON LOCAL ENVIRONMENTAL PLAN 2014

Zone: Part R2 Low Density Residential / part RU1 Primary Production / part RU2 Rural Landscape (Byron LEP 2014) and part 1(a) General Rural Zone (Byron LEP 1988)

5

Definition: Subdivision (including ancillary works)

LEP Summary of Requirement	Proposed	Complies
Objectives R2 Low Density Residential Zone <ul style="list-style-type: none"> To provide for the housing needs of the community within a low density residential environment. To enable other land uses that provide facilities or services to meet the day to day needs of residents. 	The proposed development is considered to be consistent with the Objectives of the R2 Low Density Residential Zone.	Yes
Objectives RU1 Primary Production Zone <ul style="list-style-type: none"> To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. To encourage diversity in primary industry enterprises and systems appropriate for the area. To minimise the fragmentation and alienation of resource lands. To minimise conflict between land uses within this zone and land uses within adjoining zones. To encourage consolidation of lots for the purposes of primary industry production. To enable the provision of tourist accommodation, facilities and other small-scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality. To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality. 	The proposed residual lot is to contain all land with the RU1 Primary Production Zone. No fragmentation of land within the RU1 zone is proposed.	Yes
Objectives RU2 Rural Landscape Zone <ul style="list-style-type: none"> To encourage sustainable primary industry production by maintaining and enhancing the 	The proposed residual allotment is to contain all land with the RU2 Rural	Yes

LEP Summary of Requirement	Proposed	Complies
<p>natural resource base.</p> <ul style="list-style-type: none"> • To maintain the rural landscape character of the land. • To provide for a range of compatible land uses, including extensive agriculture. • To enable the provision of tourist accommodation, facilities and other small-scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality. • To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality. 	<p>Landscape Zone. No fragmentation of land within the RU2 zone is proposed.</p>	
<p>Clause 2.6 Subdivision consent requirements Land to which LEP 2014 applies may be subdivided, but only with development consent.</p>	<p>The proposed Subdivision and associated earthworks are permissible with the consent of Council.</p>	<p align="center">Yes</p>
<p>Clause 4.1 Minimum subdivision lot size (1) The objectives of this clause are as follows: (a) to ensure that lot sizes are compatible with local environmental values and constraints, (b) to facilitate efficient use of land resources for residential and other human purposes.</p> <p>(2) This clause applies to a subdivision of any land shown on the <u>Lot Size Map</u> that requires development consent and that is carried out after the commencement of this Plan.</p> <p>(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the <u>Lot Size Map</u> in relation to that land.</p>	<p>Within the R2 zone the subject site is identified as having a minimum lot size of 400m². The proposed smallest lot (Lot 115) has an area of 482m². All proposed lots exceed 400m² in area.</p> <p>The minimum Lot size for the RU1 & RU2 zones is 40 hectares. The proposed residual lot exceeds 40 hectares in area. The proposed residual lot has an area of 42.3 hectares.</p>	<p align="center">Yes</p>
<p>Clause 5.9 Preservation of trees or vegetation (1) The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation. Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner. (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by: (a) development consent, or (b) a permit granted by the Council.</p>	<p>The application does not seek consent for the removal of any native trees or significant vegetation.</p>	<p align="center">Yes</p>
<p>6.1 Acid sulphate soils The area of the proposed subdivision and earthworks is not identified by Council's LEP 20124 mapping to</p>	<p>Council's mapping does not indicate that the area of the proposed</p>	<p align="center">Yes</p>

LEP Summary of Requirement	Proposed	Complies
contain acid sulphate soils. The parent allotment does have	development contains acid sulphate soils. Notwithstanding the above, testing for the Stage 1 development revealed the presence of acid sulphate soils. A condition has been included to require the applicant prepare an acid sulphate management plan prior to issue of a construction certificate.	
<p>6.6 Essential services Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:</p> <ul style="list-style-type: none"> (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable vehicular access. 	The subject lots are capable of being provided with the essential services required by Clause 6.6.	Yes

Clause 5.5 Development within the coastal zone

- 5 (2) *Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:*
- (a) *existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:*
 - 10 (i) *maintaining existing public access and, where possible, improving that access, and*
 - (ii) *identifying opportunities for new public access, and*
 - (b) *the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:*
 - 15 (i) *the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and*
 - (ii) *the location, and*
 - (iii) *the bulk, scale, size and overall built form design of any building or work involved, and*
 - (c) *the impact of the proposed development on the amenity of the coastal foreshore including:*
 - 20 (i) *any significant overshadowing of the coastal foreshore, and*
 - (ii) *any loss of views from a public place to the coastal foreshore, and*
 - (d) *how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and*
 - 25 (e) *how biodiversity and ecosystems, including:*
 - (i) *native coastal vegetation and existing wildlife corridors, and*
 - (ii) *rock platforms, and*
 - (iii) *water quality of coastal waterbodies, and*
 - (iv) *native fauna and native flora, and their habitats,*

can be conserved, and

(f) the cumulative impacts of the proposed development and other development on the coastal catchment.

- 5 (3) *Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:*
- 10 (a) *the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and*
- (b) *if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*
- 15 (c) *the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*
- (d) *the proposed development will not:*
- (i) be significantly affected by coastal hazards, or*
 - (ii) have a significant impact on coastal hazards, or*
 - (iii) increase the risk of coastal hazards in relation to any other land.*

20 **Assessment:** The subject site is identified as being within 1 kilometre of the tidal waters of the Brunswick River system (the coastal zone). The proposed development is unlikely to have generate unacceptable impacts with regard to matters raised in Clause 5.5. In terms of stormwater runoff this is able to be directed to the existing system, and the subject lots would be connected to the reticulated sewerage system. The proposal will not diminish access to the coastal foreshore.

25 **Byron Local Environmental Plan 1988**

Zone: 1(a) General Rural Zone
Definition: Subdivision

LEP 1988 Summary of Requirement	Proposed
<p>Clause 2A Implementation of aim, objectives and guiding principles</p> <p>(1) The Council shall grant consent to the carrying out of development on land to which this plan applies only where the Council is of the opinion that the carrying out of the development is consistent with the aim, objectives and guiding principles of this plan.</p> <p>(2) Before determining a development application, the council shall have regard to the information, guidelines and recommendations in the following strategies, policies and studies adopted by the council:</p> <ul style="list-style-type: none"> (a) State of the Environment Report, (b) Byron Flora and Fauna Study, (c) Byron Biodiversity Conservation Strategy, (d) Byron Rural Settlement Strategy, (e) Small Towns and Villages Settlement Strategies, (f) Coastline Management Plan. 	<p>The proposed development is considered to be consistent with the aims, objectives and guiding principles of LEP 1988 and therefore consent is able to be granted in this instance.</p>
<p>Clause 9 Zone objectives and development control table</p> <p>(3) Except as otherwise provided by this plan, the council shall not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is</p>	<p>The proposed subdivision is considered to be consistent with the Objectives of the 1(a) General Rural Zone and therefore consent is able to be granted.</p>

LEP 1988 Summary of Requirement	Proposed
proposed to be carried out.	
Clause 11 - Subdivision in rural areas for agriculture, etc.	The proposed residue lot is greater than 40 hectares in area and complies with the minimum Lot size for the 1(a) zone consistent with Clause 11(1) of Byron LEP 1988.
Clause 15 – Dwelling Entitlements A dwelling-house on the land is permitted if the land is- <ul style="list-style-type: none"> • an existing holding; or • an allotment created in accordance with clauses 11, 11B, 12(3) or 13; or- • a lot or portion referred to in Schedule 7 	The existing residual lot has a dwelling entitlement.
Clause 45 – Provision of Services Prior adequate arrangements must be made for the provision of sewerage, drainage and water services to the land.	No change to existing arrangements for the relatively small portions of land within the 1(a) General Rural Zone.

Draft EPI that is or has been placed on public exhibition and details of which have been notified to the consent authority

- 5 No relevant draft Environmental Planning Instrument/s have been identified for this proposal.

3.3 DEVELOPMENT CONTROL PLANS

Development Control Plan 2014		
DCP Clause	Requirement	Compliance
Part B: Controls Applying Generally to Development Applications		
B2.1: Preservation of trees & other vegetation	All existing trees are to be retained on the land to be dedicated as public open space or road reserve.	Yes
B3 & B4: Services & Vehicle parking	A stormwater management plan is required as a condition of consent.	Yes
B6: Buffers & Land Use Conflict	Complies with the setback requirements identified within Table B6.1	Yes
B8: Waste Minimisation & Management	B84.1 All Development Applications require the submission of a SWMMP.	Yes* (*Condition to require a SWMMP)
Chapter B9 Landscaping		
B9.2 Landscape plan requirements	A landscape plan is required to accompany the proposed subdivision.	Yes* (*Condition to require a Landscape Plan)
B13: Access & Mobility	B13.2.1 This is not a mandatory provision for dwellings. Encourage equitable access.	Yes
B14: Excavation & Fill	Maximum depth of excavation & fill: 1.0m	Yes – see discussion below in terms of Objectives
Part C: Further Controls, Specific Constraints & Environmental Characteristics		

BYRON SHIRE COUNCIL

Development Control Plan 2014		
DCP Clause	Requirement	Compliance
C1: Non-Indigenous Heritage	Is the development a heritage item or within a Heritage Conservation area, or in the vicinity of heritage items or conservation areas? C1.2.2 assessment required if so.	N/A
C2: Areas Affected by Flood	Is the site flood prone land? Yes, part of the larger subject allotment is flood prone however Council Development Engineer has advised all the proposed residential lots within this stage are flood free.	Yes
C3: Visually Prominent Sites and View Sharing	Is the site a visually prominent site? C3.2.1	N/A
	Are there any objections? C3.2.2	N/A
C4: Drinking Water Catchment	Is the development in a drinking water catchment? Subject land is outside the drinking water catchment.	N/A
Part D6: Subdivision		
D6.2.1 Subdivision Design Guidelines	<p>Prescriptive Measures Development applications for subdivision must address the following Design Guidelines:</p> <ol style="list-style-type: none"> 1. Site Design 2. Climate Control and Aspect 3. Hazards Hazard constraints potentially affecting land must be identified and addressed in preparing an application for subdivision. The following list identifies some hazards that may affect the potential for subdivision or influence subdivision design: <ol style="list-style-type: none"> a) Flooding. b) Bushfire. c) Landslip and subsidence. d) Land contamination and the need to address the requirements under State Environmental Planning Policy No.55 – Remediation of Land. e) Acid Sulfate Soils. f) Coastal hazards. 4. Vegetation removal 5. Riparian Buffers and land fronting watercourses 6. Landscaping 7. Roads 8. Street Lighting 9. Public open space and public reserves 10. Stormwater Management 11. Utility Services 12. Provision of Potable Water Supply 13. Sewer 14. Geotechnical Report 15. Strata Title, Community Title and Stratum Subdivision 	Yes – the proposed design is considered to have adequately addressed the design guidelines subject to conditions.
D6.4.1 Lot Size and shape	<ol style="list-style-type: none"> 1. Lot sizes must not be less than the minimum area specified in Byron LEP 2014 on the Lot Size Map. The Lot Size Map identifies the subject 400m². All proposed residential lots have an area which substantially exceeds 400m². The proposed residual allotment has an area exceeding 40 hectares. 	Yes
	<ol style="list-style-type: none"> 2. For lots that are not typical rectangular shaped lots, Table D6.1 indicates Council's preferred minimum lot sizes in urban subdivisions: Table D6.1 – Preferred Minimum Lots Sizes – Urban Subdivision Type of lot Minimum lot area Corner lot 650 m² 	The proposed lots comply with the 400m ² minimum lot sizes established in the approved Concept

Development Control Plan 2014		
DCP Clause	Requirement	Compliance
	Hatchet-shaped lot (excluding access handle) 800 m ² Hatchet-shaped lot adjacent to public reserve (excluding access handle) 650 m ² Fan-shaped lot (minimum frontage 7m) 650 m ² Each of the proposed lots are hatchet shaped and proposed to be located adjacent to	Plan and in LEP 2014.
	3. Proposed lots containing existing dwellings must not result in that lot having a floor space ratio lower than that specified on the Floor Space Ratio Map.	Yes
	4. Lots must provide an appropriate shape and area to accommodate an unconstrained building envelope with minimum dimensions of 12 metres by 15 metres. Each of the proposed allotments exceed minimum lot size requirements and a capable of containing a 12m x 15m building envelope. Proposed Lot 104 is capable of providing the envelope whilst also providing a 12m APZ, a 4.5 metre front setback and 900mm on either side.	Yes
D6.4.2 Access Design	1. Applications must demonstrate that vehicle access can be provided to each lot created by the subdivision in accordance with Chapter B3 Services. In certain circumstances, due to topography and other constraints, the driveway will need to be designed and constructed at the subdivision stage.	Yes
	2. Additional standards may apply in bushfire prone areas as per the requirements of the NSW Rural Fire Service.	Noted
Part E3: Mullumbimby		
E3.6 Urban Design in Precinct 5	The shelterbelt will have a minimum width of 20 metres and shall be planted with species locally indigenous to Byron Shire (refer to the Native Species Planting Guide to Byron Shire) along the southern boundary of Precinct 5 (Mullumbimby Urban Area Map) within the adjacent road reserve (See Figure E3.1 for design details). Existing native vegetation within the road reserve and within Precinct 5 is to be integrated with planted species. No vehicle access or roads to be provided from or constructed within the shelterbelt other than a potential link connecting Brushbox Drive within Precinct 7 to the proposed distribution road, as indicated in the Mullumbimby Urban Area Map. A shared bike/ pedestrian pathway in the shelterbelt will be considered on merit.	Yes - A condition has been included to require plantings within the shelter belt (20m wide road reserve) in accordance with Section E3.6.

DCP 2014 -Chapter B14.2 Excavation and Fill in all Zones

5 The proposal exceeds the prescriptive measures restricting earthworks to 1 metre for excavation and filling. The provisions under the DCP state

Objectives

- 10 1. *To ensure that towns, villages, commercial, industrial, residential and rural areas maintain overall compatibility with the Shire's natural features and its historical built character.*

2. To control the extent, character, bulk and scale of earthworks so that both individual and cumulative earthworks over time do not detract from the existing and desired future character of their immediate locality, and the surrounding area.

5 3. To promote the use of earthworks to create landscapes and streetscapes that make a positive contribution to the existing and desired future character of their immediate locality and the surrounding area.

Prescriptive Measures

10 1. Unless otherwise stated below, excavation and filling must be limited to a depth of 1 metre. See Figure B14.1.

15 **Assessment:** Within the proposed development area, fill to a depth of 3.39m and earthworks to a depth of 4.18m are proposed which exceed the prescriptive measure. The proposal has been considered against the objectives of Chapter B14.2 as follows:

- The proposed bulk earthworks will create more level building areas on new residential lots and in some circumstances reduce driveway gradients. It is intended this will provide for more cost efficient dwelling construction as opposed to individual land owners seeking approval for earthworks following the release of the lots;
- Improved residential amenity for the use of landscape areas and private open space for gardens, children’s play areas and the like;
- No retaining walls are proposed within the residential allotments;
- The proposed retaining wall located within the southern road reserve (Cockatoo Crescent) is an extension of the existing retaining wall (a fence is proposed to be located at the top of the wall structure);
- Council’s Development Engineer has raised no objection to the proposed earthworks and retaining walls from an engineering perspective, and
- The co-ordinated bulk earthworks are considered likely to enhance the streetscape appearance with a reduced need for retaining walls to be constructed by individual property owners using different materials and techniques.

35 It is considered the earthworks as proposed are satisfactory having regard to the objectives underpinning this design element.

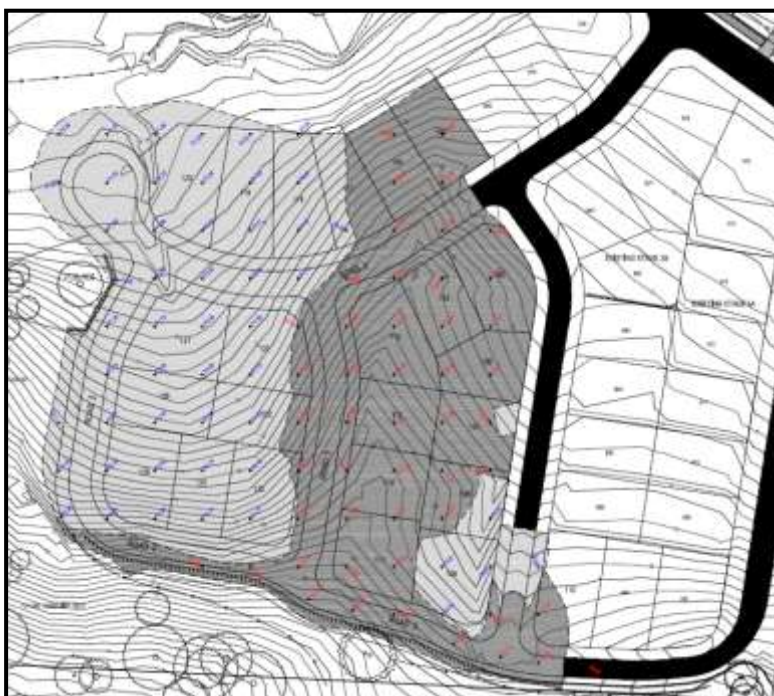


Figure 4 – Proposed areas of cut (dark grey) and proposed areas fill (light grey)



Figure 5 - Existing two tier retaining wall near southern boundary (adjacent to shelter belt)

5

3.4 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

10 The proposed development does not seek consent for the removal of any native trees. It is considered that the proposal will have no significant detrimental effect having regard to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

15 To assist with the protection of koalas on the site and surrounds it is recommended that a restriction on use be placed on the proposed residential lots that permits the keeping of dogs on the land provided they are contained within a fenced yard.

3.5 The suitability of the site for the development

20 The subject site is partly identified by Council's hazard mapping as being bushfire prone land. The application has been granted approval pursuant to Section 100B of the Rural Fires Act 1998 subject to conditions imposed by the NSW Rural Fire Service as detailed in Section 2.1 of this report.

25 The subject allotment is partially identified as being flood liable land. Council's Development Engineer has raised no objection to the proposal with regard to flooding will all proposed residential allotments to be above the required flood planning level.

30 Cultural heritage considerations for the proposed development area were considered as part of concept plan (10.2009.314.1) application and subsequent approval. A Cultural Heritage Assessment Report dated June 2009 was prepared by Everick Heritage Consultants Pty Ltd. The recommendations of the Everick report are included as conditions of consent.

35 The suitability of the site for residential development was a matter for consideration in the assessment and approval of the concept plan 10.2009.314. Subject to conditions included in the recommendation of this report the subject site is considered to suitable for the proposed development.

3.6 Submissions made in accordance with this Act or the regulations

One (1) submission was received in response to the development application. A summary of the matters raised in the submission follows:

5

Issue	Comment
<p>The area of land abutting 32 Melaleuca Drive to the north west contains significant Brush Box and other beautiful native vegetation. We request that Council re-familiarises itself with the Land and Environment Court decision and ensures that:</p> <ol style="list-style-type: none"> 1. the developer has accurately mapped this vegetation in DA 10.2015.686.1 and 2. as required by the decision, all areas of land containing mature brush-box or other mature native vegetation are dedicated as public reserves and excluded from residential lots. 	<p>Inspections of the site by Council's Ecologist and the applicant's Ecologist have confirmed the location of existing native trees and vegetation adjacent to the proposed Stage 5 development area. No existing native trees are proposed to be removed as part of this development application.</p> <p>The existing Tallowood trees located immediately to the west of proposed road No.2 are to be contained within the residual allotment for this stage. The existing large Brush Box tree located adjacent to the southern boundary of Stage 5 is also proposed to be retained in the residual allotment.</p>
<p>The land since being owned by the developer now has an infestation of camphor laurel and other environmental weeds has been allowed to impact the Brush Box woodlands. We submit that Council should require, as a condition of DA No: 10.2015.686.1, that the developer undertakes a camphor laurel and environmental weed management exercise and restores the Brushbox woodland in the land required to be dedicated as public reserves.</p>	<p>A Biodiversity Conservation Management Plan exists for the Tallowood Ridge Estate. A specific condition of consent has been included to require weed removal be undertaken by suitably qualified bush regenerators (this includes Management Zone No.10 located to the south of the Stage 5 development area).</p>

3.7 Public interest

The proposed development is considered to be consistent with the public interest.

10

4. DEVELOPER CONTRIBUTIONS

4.1 Water & Sewer Levies

15 The application seeks development consent for subdivision to create twenty four (24) residential lots. The proposed development will generate the following water and sewer load:

Ref	Development Type	Standard Unit	Quantity	ET Rate (ET/unit)		ET Load	
				Water	Sewer	Water	Sewer
2.3	Large Lot	Lot	1	1.2	1.0	1.2	1.0
2.1	Standard Lot	Lot	24	1.0	1.0	24.0	24.0
TOTAL						25.2	25.0

	Water	Sewer
Existing ET Entitlements (Table 1)	1.2	1.0
Proposed Development ET loading (Table 2)	25.2	25.0
Additional ET loading	24.0	24.0

Therefore, this development generates an additional load onto Council’s Water and Sewer System

- 5 Council requires Payment of Developer Servicing Charges (prior to issue of a construction certificate) of:
- **24.0 ET** for Water &
 - **24.0 ET** for Sewer.

10 **4.2 Section 94 Contributions**

This development will generate a demand for public facilities and a condition of consent requires the payment of contributions. Payment is normally required for ‘open space’ however in this instance following the works and land dedication associated with the sports field the open space payment is reduced to nil in this instance.

5. CONCLUSION

20 The proposed development is considered to satisfy the relevant environmental planning instruments and development control plans for the site, and is consistent with the Staged Development Consent for “Tallowood Ridge Estate”.

25 The proposed development involves substantial earthworks which are considered acceptable in this instance to create more suitable housing allotments for future residents as detailed in this report. The development is recommended for approval subject to conditions.

6. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

Has a Disclosure Statement been received in relation to this application	No
Have staff received a ‘gift’ from anyone involved in this application that needs to be disclosed. Where the answer is yes, the application is to be determined by the Director or Manager of the Planning, Development and Environment Division.	No

30 Provide Disclosure Statement register details here: Nil.

Report No. 13.17 **PLANNING - 10.2015.634.1 Change of use of Cheese Factory to Kitchen, Administrative Facilities, Expansion of Restaurant Areas and Car Parking and New Dwelling House at 11 Ewingsdale Road Ewingsdale**

5 **Directorate:** Sustainable Environment and Economy
Report Author: Rob Van Iersel, Consultant Planner
 Chris Larkin, Major Projects Planner
 Shannon Burt, Director Sustainable Environment and Economy

10 **File No:** I2016/802
Theme: Ecology
 Development and Approvals

15 **Proposal:**

Property description: LOT: 1 DP: 780234, LOT: 5 DP: 848222
 Woodford Lane EWINGSDALE, 11 Ewingsdale Road EWINGSDALE

Parcel No/s: 21860, 207010

Applicant: Planners North

Owner: The Farm at Byron Bay Pty Ltd

Zoning: Zone No. RU1 Primary Production

Date received: 19 October 2015

Integrated Development: No

Public notification or exhibition: – Level 1 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications

 – Exhibition period: 5/11/15 to 18/11/15
 Submissions: For 0 Against 6

Other approvals (S68/138): Not applicable

Planning Review Committee: 3 December 2015

Delegation to determination: Council

- Issues:**
- Scale of operation – impacts on local amenity
 - Compatibility with RU1 zone objectives
 - Permissibility of proposed / existing uses
 - On-site effluent disposal system
 - Compliance with existing approvals

Summary:

20 In addition to addressing the current development application, this report also provides information to Councillors relating to the management/ resolution of compliance issues, particularly associated with existing development consents.

Current Application:

25 The application seeks approval for various alterations and additions to the existing development known as The Farm, and includes:

- A new dwelling, proposed to be located toward the eastern part of the land, adjacent to Simpsons Creek;
- Change of use of the existing rural dwelling to an administration area for the restaurant/ café (use currently operating);

- Change of use of the approved cheese making facility to a food production kitchen (bakery) & associated industrial retail outlet (use currently operating);
- Additional restaurant seating; and
- Provision of additional car parking spaces (including a grassed 'overflow parking' area accommodating 197 spaces).

Dwelling:

The new dwelling is proposed to be located separately to the existing development, and will be accessed via a new driveway from Quarry Lane. A new stand-alone on-site wastewater system is proposed to service the dwelling.

The design of the dwelling is somewhat unusual, with four bedroom 'pods' connected via a hallway to the main structure, which contains a fifth bedroom, kitchen, dining, living areas. Approval of the dwelling is supported, subject to a condition prohibiting its use for holiday letting or any other form of temporary accommodation or tourism use.

Change of Use to Administration:

The change of use of the existing dwelling to the administration centre for the existing restaurant has been commenced. The building has been renovated internally to provide meeting rooms and offices. It is serviced by the existing on-site wastewater system, with parking for staff provided in existing car parks adjacent to the building.

While concerns remain regarding the ongoing performance of the on-site wastewater system, it is considered that the demands on this system associated with the administration use are not significantly different from loads associated with the previous residential use of the building as a dwelling.

Approval of this change of use is supported.

Change of Use to Bakery:

The approved cheese making facility does not appear to have ever commenced operation. The bakery, however, is in place and, from observation, appears to operate as a separate retail use within the premises. Bread and bakery products are displayed for retail sale internally within the main Farm building in a dedicated area adjacent to, but separate from, the restaurant.

This type of use would constitute a "shop" as defined in the Byron LEP 2014. Such a use is prohibited in the RU1 zone.

The applicants submit that the proposed use will operate as an "agricultural produce industry", because it processes produce from agriculture for commercial purposes. An internal 'flour mill' is proposed to be included to enable operators to produce flour on-site. They further advise that the majority of the bakery products produced will be 'wholesaled', with a minority offered for retail sale from the site.

These aspects of the proposal are put forward to distinguish the operation from a 'conventional' bakery, which operates as a shop.

There is a lack of detail submitted with the application to explain how the flour mill might operate in the context of the bakery, and concerns remain that its operation is more appropriately defined as a shop.

The applicants were also requested to clarify trade waste issues associated with the bakery use, as concerns remain regarding ongoing performance of the existing on-site wastewater management system. Insufficient information has been provided in this regard.

Approval of the change of use to bakery is not supported.

Additional restaurant seating:

5 An additional 60 seats are proposed for the approved restaurant, as well as two 'picnic areas', with a combined area of approximately 600m².

10 The existing operation meets the definition of "tourism development" in clause 6.8 of the Byron LEP. This clause requires that Council should not consent to tourism development in the RU1 zone unless it is of 'small scale' and low impact. Small scale is defined in the clause as 'small enough to be generally managed and operated by the principal owner living on the property'.

15 The proposed additional seating is not consistent with the requirements of this clause and approval is not supported. Information has not been provided to address how the proposed additional seating might impact on the performance of the existing wastewater management system.

Additional Car Parking:

20 The application proposes approximately 170 additional car parking spaces, as well as an additional overflow parking area, with capacity for 197 spaces.

The additional parking is proposed in relation to the overall use of the facility, rather than specifically relating to the uses proposed in this application.

25 The additional parking is not consistent with 'small scale' as outlined above in relation to tourism development within the RU1 zone. As such, approval of the additional car parking is not supported.

Compliance Issues:

30 Council officers have identified a number of ongoing issues at the site, related to unapproved land uses and/or the current use of the land pursuant to the existing approvals (primarily Consent 10.2013.626.2, but also 10.2015.151.1). These include:

- Performance of the on-site wastewater system;
- Dust and erosion issues associated with gravel surface of the car park and internal roads (Condition 13 DA 10.2013.626 & Condition 5 DA 10.2015.151);
- 35 ▪ Patron numbers (Condition 47 DA 10.2013.626 & Condition 31 DA 10.2015.151); and
- Operation of plant nursery/ roadside stall.

40 Additional issues have resulted in compliance action regarding unapproved uses, and Council officers are aware of the bakery use and the restaurant administration use, both subject of the current application, that have commenced without approval.

Officers have also been made aware of potential for future expansion of uses, particularly associated with events at the site.

45 Since December last year, officers have met with owners and their consultants, strongly suggesting that a more holistic "master plan" should be developed for the operation of the enterprise, which would then allow Council to determine an appropriate approval pathway for the assessment of development. This could be by way of a site-specific LEP amendment, which would allow Council to fully assess the master plan and provide an outcome that appropriately addresses

50 the context of the land, the capacity of the site, the expectations of the owners/ operators, and the existing and future rural amenity.

NOTE TO COUNCILLORS:

5 In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes of Council Meetings of Council's adopted Code of Meeting Practice (as amended) a Division will be deemed to have been called by the mover and seconder of all motions relating to this report.

RECOMMENDATION:

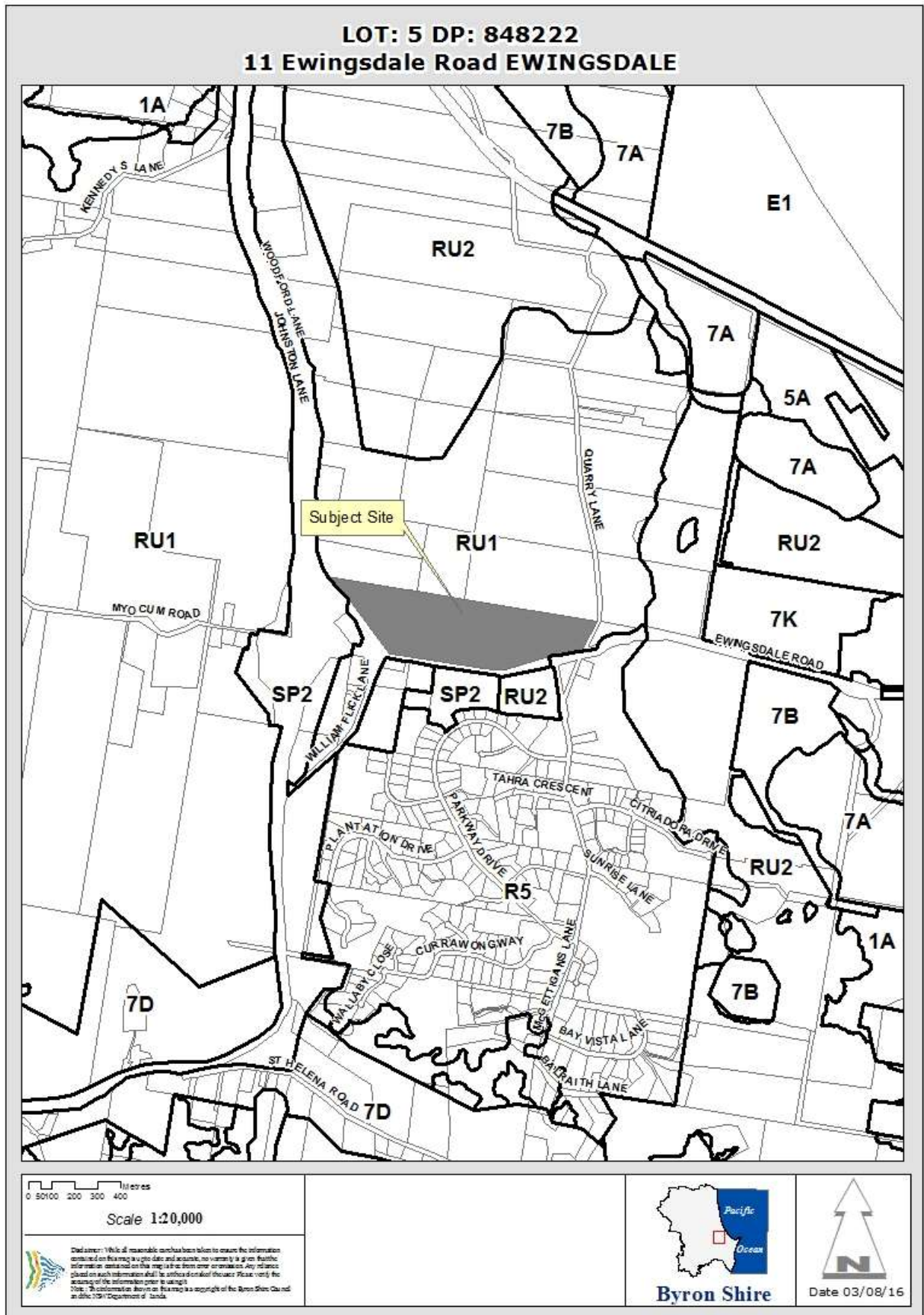
1. **That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2015.634.1 be granted consent subject to the following conditions listed in Attachment 2 E2016/73002, but only for the following components: a new dwelling house; and change of use of an existing dwelling to restaurant administration.**
2. **That Council staff undertake a Compliance Audit of the existing operation, particularly in relation to compliance with conditions of approval for DA 10.2013.626.1, and, as a result of the audit, prepare a detailed Audit Action Plan.**
3. **That Council invites The Farm to work with Council staff to identify appropriate approval pathways in relation to the existing and potential future development at the site.**

Attachments:

10

- 1 Proposed Plans 10.2015.634.1, E2016/73048
- 2 Conditions of consent 10.2015.634.1, E2016/73002
- 3 Confidential - submissions 10.2015.634.1, E2016/73040

15



Assessment:

1. INTRODUCTION

5

1.1 History/Background

Application No.	Proposal description	Outcome	Det. Date
BA 73/2201	Storage shed	Approved	04/10/1973
BA 76/2264	Additions to dwelling	Approved	05/11/1976
BA 82/2178	Shed	Approved	04/05/1982
DA 5.1992.525.1	Rural worker's dwelling	Approved	08/01/1993
BA 6.1992.2706.1	Relocated dwelling	Approved	08/03/1993
BA 6.1996.2461.1	Rural shed	Approved	14/11/1996
DA 10.2013.626.1	Cheese making facility and farm café (see Note 1 below)	Approved	22/05/2014
DA 10.2013.626.2	S.96 modify road works and access (cheese making facility and farm café)	Approved	13/11/2014
DA 10.2013.626.3	S.96 to remove requirement for sealing of car park	Refused	22/04/2016
DA 10.2015.281.1	Dwelling house to replace existing dwelling house	Withdrawn	17/07/2015
DA 10.2015.151.1	Change of use for the purpose an agricultural training facility, plant nursery and addition to the food and drink premises kitchen (see Note 2 below)	Approved	12/11/2015
DA 10.2015.151.2	S.96 to remove requirement for sealing of car park	Refused	22/04/2016
DA 10.2016.26.1	Construction of 6 car parking spaces with electric charging facilities	Approved	26/04/2016

1.2 Current compliance issues

10

Note 1 – DA 10.2013.626.1

A construction certificate and interim occupation certificate have been issued for development consent 10.2013.626.2 (cheese making facility and Farm café). Council has therefore formally acknowledged that this consent has lawfully and physically commenced. Therefore, this consent is to be relied upon in relation to ensuring the premises are currently compliant.

15

The consent approved a “*cheese making facility and farm café*” on the land. That application included a number of components, notably:

- Cheese making facility:

20

Add to and alter a farm shed to become a cheese ‘factory’ to make goat cheese from the on farm herd and other small scale cheeses from locally produced milks. The floor area of the cheese facility is approximately 305m² with the majority of this space being a cheese warehouse cool room. Cheese making will be able to be viewed through a large viewing window. The western end of the cheese facility contains the café with 30 internal seats and 62 external seats on a covered deck.

25

The cheese making facility was considered to constitute a **rural industry**, as defined in LEP 2014 and the café met the definition of **restaurant**.

It appears that the cheese making component has never been commenced.

5

Other aspects of the application included:

- a “gelato/ coffee bar”, with seating for 6 people;
- a “produce stall” (defined as a **roadside stall** for the purposes of the LEP), for the display and sale of farm produce grown on the site;
- 10 ▪ new toilet facilities; and
- the relocation of an existing farm shed.

10

Condition 13 of the consent requires (in part) that internal driveways and all car parking areas are to be bitumen sealed. An application was made under Section 96 of the Act to modify the consent to remove this requirement, but that request was refused due to ongoing concerns regarding dust and erosion/ sedimentation issues associated with the car park and internal roads. This issue has been subject of complaints to Council.

15

Council officers have discussed the issue with the applicants/ land owner. A further Section 96 Application has recently been submitted to amend the condition based on an alternate method of dust control/ surface management. The application is yet to be determined.

20

Condition 47 of the consent limits the number of patrons to 90 at any one time. Council has received a number of complaints regarding non-compliance with this condition and the applicant has accepted that managing patron numbers has been challenging.

25

Note 2 – DA 10.2015.151.1

By letter of 23 February 2016, the proponents agreed that Development Consent 10.2015.151.1 has not yet been commenced. It approved a number of additions to the Farm, notably a change of use for the previously approved Rural Workers Dwelling to an agricultural training facility. Despite the applicants’ advice that the consent has not been commenced, it appears that this building is no longer being used as a dwelling.

30

Other compliance issues:

On-site wastewater management – there have been discussions with the operators regarding the inadequate performance of the on-site system, particularly relating to the ability of the system to adequately treat and dispose of the nature and volume of waste being generated by the various site uses.

35

Discussions are continuing regarding compliance with the Approval to Operate, and the land owner / operator is sampling and monitoring the system on a weekly basis, with results provided to Council. The monitoring is yet to demonstrate consistent compliance for this system.

40

Roadside stall – the plans approved under DA 10.2013.626.1 showed the roadside stall included under the roofline of the restaurant building. A subsequently approved Construction Certificate plan (issued by private certifier) did not show the roadside stall in this area. It did, however, show a “garden shed” as a stand-alone structure immediately to the west of the restaurant.

45

The subsequent DA 10.2015.151.1 approved a change of use of this “garden shed” to a retail plant nursery. As discussed above, the consent 10.2015.151.1 has not yet been legally commenced. Despite this, it appears that this structure is currently being used as a “flower shop”/ nursery.

50

Bakery – the application subject of this report proposes a change of use of the previously approved cheese making facility (DA 10.2013.626.1) to a bakery. It appears that the cheese making facility

was never implemented and that the bakery has been operating for some time, having commenced operation prior to any approval. Its current operation suggests it is primarily used as a retail outlet.

5 Miscellaneous uses – Council has previously been made aware of uses at the site, including office premises for Byron Bay Holiday Rentals, and use of the previous rural workers dwelling as a yoga studio, that did not appear to have any formal approvals. Following discussions with the land owners and/or compliance action, those uses were discontinued.

1.3 Description of the site

10 The subject site is legally described as Lot 5 DP 848222 & Lot 1 DP 780234 and is located at No. 11 Ewingsdale Road, Byron Bay. The site has frontage to Ewingsdale Road, Quarry Lane and Woodford Lane (the old Pacific Highway). Access to the site is via Woodford Lane.

15 The site is adjacent to recently constructed intersection works (to the west), which are part of the Tintenbar to Ewingsdale Pacific Highway Upgrade project. Adjoining land to the north and east is rural in nature, with a combination of grazing, cropping and rural living.

20 Immediately south of the site, on the opposite side of Ewingsdale Road, is a concrete batching plant, with the recently completed Byron District Hospital immediately east of the batching plant. The Ewingsdale rural residential area is located to the south/ south-east.

25 The existing buildings are generally clustered within the south-western part of the site, adjacent to the intersection of Woodford Lane and Ewingsdale Road (intersection now closed). Buildings in this cluster include the café/ restaurant, with covered and outdoor seating; a flower shop/ nursery; three “farm sheds”; two dwellings, one of which has been approved for use as a “training room”; and children’s’ play areas/ structures. Outside of the building cluster are extensive lawn areas; car parking; a community garden and extensive “growing areas” and grazing areas.

1.4 Description of the proposed development

The application seeks approval for various alterations and additions to the existing Farm infrastructure for the following activities:

- 35 ▪ Change of use of the approved cheese making to a food production kitchen (bakery) & associated industrial retail outlet;
- Change of use of the existing rural dwelling to an administration area for the restaurant/ café;
- Expansion of the seating area of the café to provide an additional 60 seats (in two separate locations; 40 seats and 20 seats);
- Provision of a two separate “Picnic Areas”;
- 40 ▪ A new dwelling, proposed to be located toward the eastern part of the land, adjacent to Simpsons Creek; and
- Provision of additional car parking spaces (including an ‘overflow parking’ area accommodating 197 spaces).

Change of use – cheese making facility to bakery:

45 The cheese making facility was approved under consent 10.2013.626.1, together with the restaurant/ café. The intention was to make goat cheese from an on-farm herd and other small scale cheeses from locally produced milks. The floor area of the cheese facility was approximately 305m² with the majority of this space being a cheese warehouse cool room. Cheese making was
50 intended to be viewed through a large viewing window.

Consent 10.2015.151.1 subsequently approved a modification of the internal layout of the facility, to utilise a portion of the approved ‘cheese making facility’ to extend the existing restaurant/café

kitchen. The approved plan for that consent showed the remaining cheese making facility with a floor area of approx. 115m².

5 Although some buildings and infrastructure were put in place, it appears that no part of the site has been, or is presently, used for the purpose of a 'cheese making facility'.

10 The current proposal is shown below, and provides for a bakery space to the east of the restaurant kitchen, with retailing of the products in a separate counter area in the existing building. It is noted that the bakery is currently operating in this space.

15 The applicants' submission does not provide detail to clarify the scale of operation. The flour mill is shown within the bakery floor plan as a small square on what looks to be an island bench. No information has been submitted to provide detail of the proposed operation, i.e. what inputs are to be used, in what quantities etc. There is no information regarding transport or storage of either the agricultural produce to be brought to site nor the products to be wholesaled.

Change of use – dwelling to administration:

20 The existing dwelling is located toward the Ewingsdale Road frontage of the property, and was the original farm house on the land. The current application proposes to use this building as the administration/ 'back of house' for the restaurant. The plans shown below illustrate the internal alterations proposed, to create a combination of offices and meeting rooms.

It is apparent that this use is currently operating in this building.

25 **Expansion of café seating:**

30 Two areas of additional seating are proposed; one containing 20 seats located immediately north of the existing outdoor seating; and the other containing 40 seats located north of the existing toilets and proposed bakery. The approved plans for the restaurant/ café (10.2013.626.1) showed 48 internal seats and 24 external seats (total 72 seats).

35 Condition #47 of the approval specified that "*approval is for 90 patrons and 10 staff at any one time*".

40 Plans approved with DA 10.2015.151.1 showed an expanded external "dining terrace", but did not specify the seating numbers within this space. Condition #31 of that consent specified "*approval is limited to no more than 100 persons (including patrons and staff on the property (i.e. Lot 1 DP 780234 and Lot 5 DP 848222) at any one time*".

45 The current application notes that the limitation of numbers was related to issues associated with wastewater and car parking. The application suggests that these issues are no longer relevant and that, therefore, the restriction on patron numbers is no longer necessary. The addition of 60 seats as proposed would take the total approved seat numbers to at least 132 (72 seats approved 10.2013.626.1 + 60 additional).

Provision of picnic areas:

50 The plans show two proposed picnic areas; each located directly adjacent to the proposed additional café seating locations.

No information is provided to indicate how these areas are proposed to be used, or how many people are likely to be accommodated in these areas. However, it is assumed that they would be used for casual seating in conjunction with the existing restaurant/ café.

55 The traffic report submitted with the application shows the picnic areas having areas of 382m² and 244m².

New dwelling:

5 Plans submitted with the application show the proposed dwelling located well to the east of the existing buildings, on a small rise overlooking Simpsons Creek. It is proposed as a single-storey building, consisting of a primary rectangular structure, approximately 23m x 7.5m, containing kitchen, dining, living with a master bedroom and ensuite, as well as a sun room and a 'wet room'. A 4.8m wide covered deck provides an external BBQ/ dining area on the western elevation of the primary structure.

10 A 1.5m wide covered hallway is along the southern elevation of the primary structure, with four bedrooms connecting to the south of the hallway; each as a separate structure measuring approx 4m x 6.5m. Each of these 'pods' contain a bedroom with attached ensuite.

15 External uncovered car parking is proposed adjacent to the dwelling and access is proposed from Quarry Lane, by way of a new internal driveway/ access road. No details are provided of this internal road, which will require a crossing of Simpsons Creek.

Car Parking:

20 The plan titled "Masterplan Stage 1" (18.09.2015) shows a total of 300 car parking spaces on site, plus provision for 'overflow parking' containing a further 197 spaces.

25 The approval of DA 10.2015.151.1 shows a total of 247 car parking spaces (with no 'overflow'). Approval DA 10.2016.26.1 provides for 6 spaces, located adjacent to the restaurant administration building, with electric charging facilities.

The applicant states that the proposed car parking works associated with the current application are shown in the plan titled Overview Plan, prepared by Greg Alderson & Associates as part of their traffic & parking assessment report (see extract below).

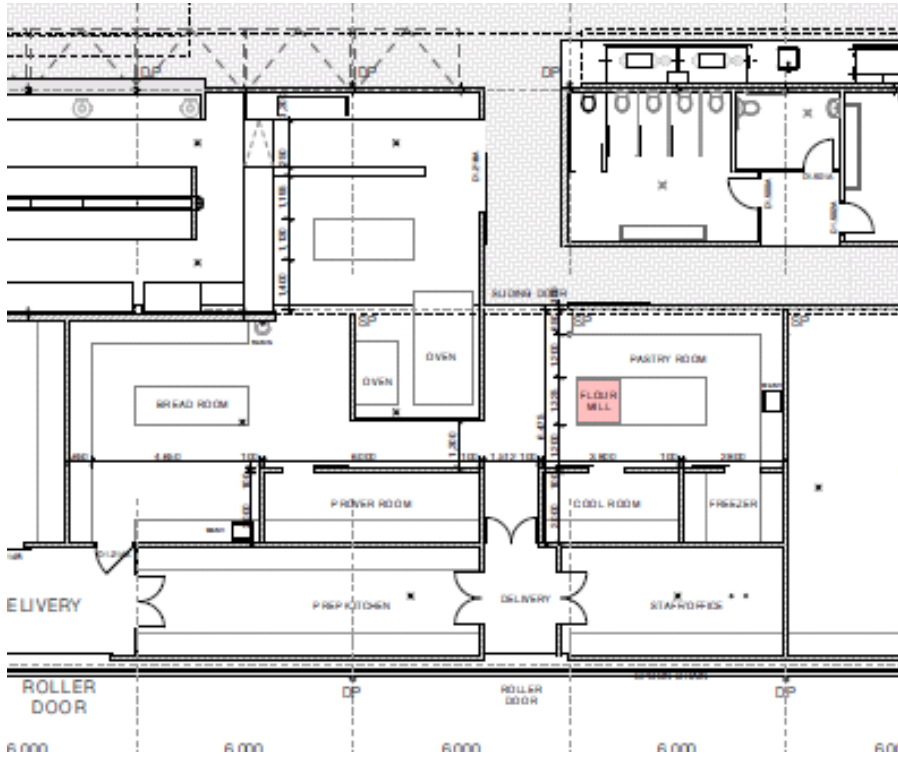
30 That plan, while not clearly identifying existing versus proposed spaces, provides for a total of 254 "all weather car parks"; 5 heavy vehicle loading bays; 1 articulated vehicle loading bay; 8 disabled car parking spaces; 6 "shared spaces"; and a grassed "overflow" parking area with accommodation for a further 197 spaces.

35 In addition to this, three spaces are provided adjacent to the proposed new dwelling.

The parking assessment indicates that, in accordance with the provisions of DCP 2014, the proposed development generates the need for following number of spaces:

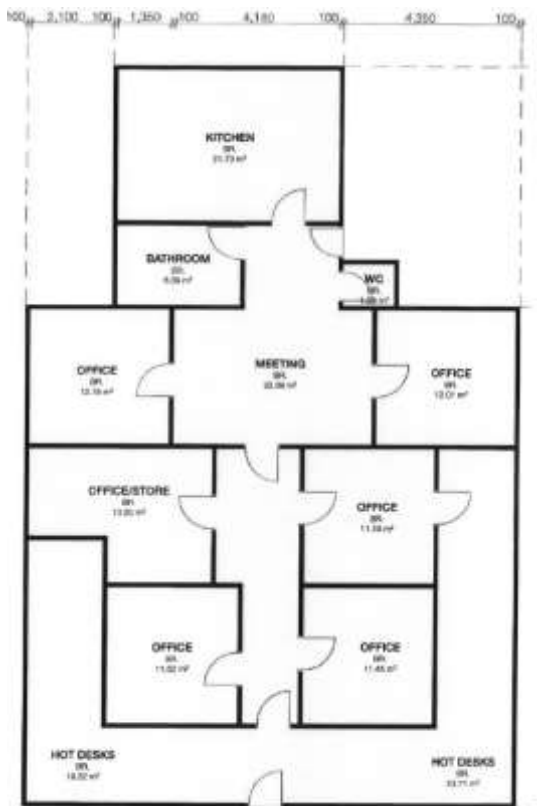
Additional café seating:	29 spaces
Café picnic area:	51 spaces
BBQ picnic area:	17 spaces
Restaurant administration:	8 spaces
New Dwelling:	2 spaces

Proposed change of use to Bakery

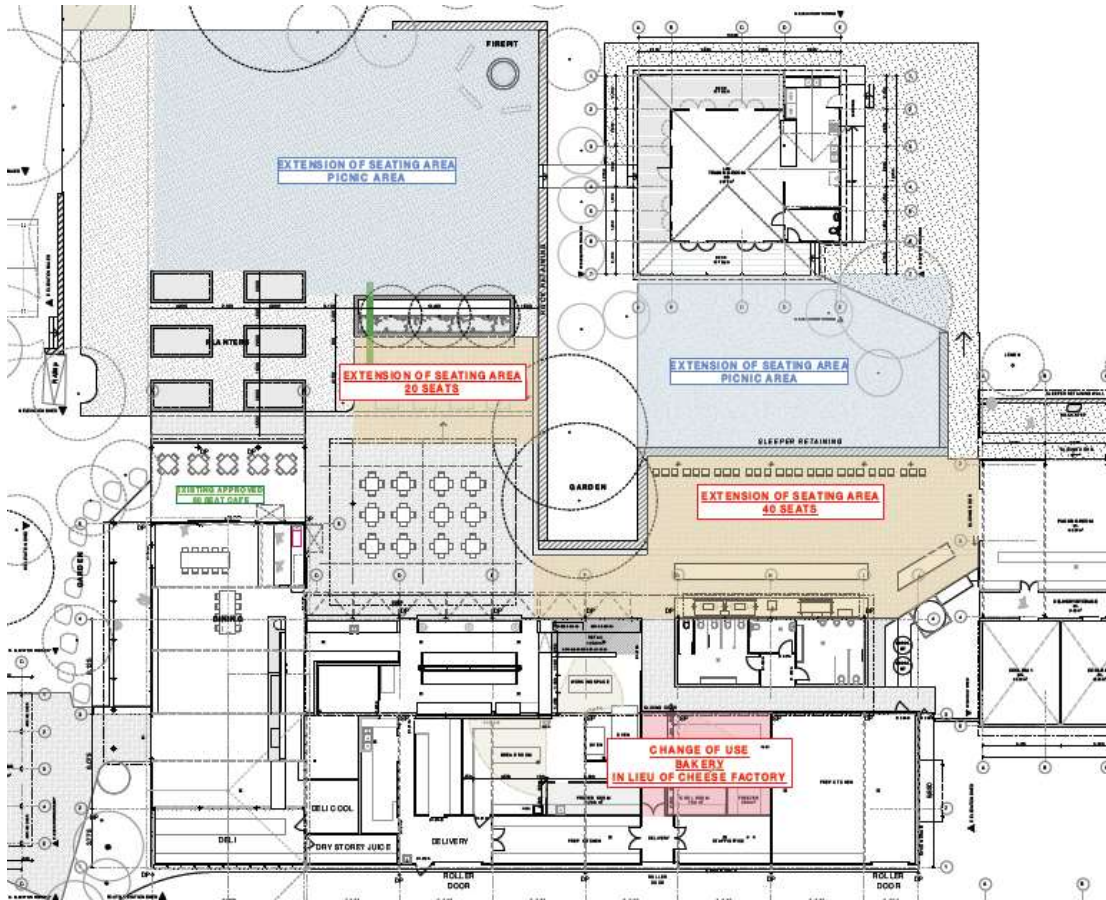


Proposed change of use to Restaurant Administration

5



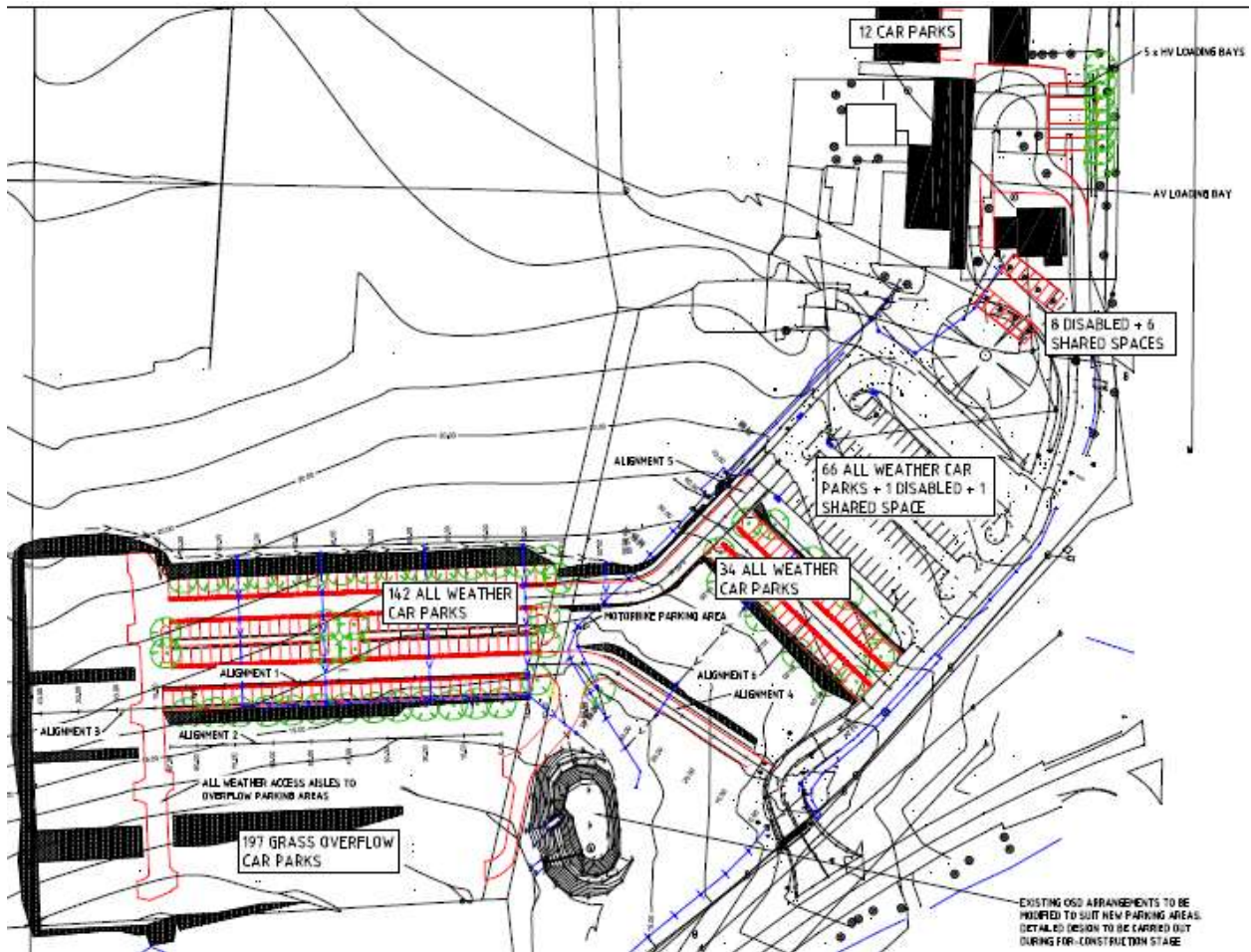
Additional café seating and picnic areas



Proposed Dwelling



Car parking plan:



5

2. SUMMARY OF GOVERNMENT/EXTERNAL REFERRALS

	Summary of Issues
Development Engineer	See discussion below.
Environmental Health Officer	See discussion below.
Systems Planning, Water	Contributions required for Bulk Water. See discussion below.
Building Surveyor	Referral not required for this application
Fire Control Officer	
Ecologist	
Tree Preservation Officer	
Government Authorities	

Development Engineer:

10 Council's Development Engineer has expressed concerns regarding a range of traffic and parking issues.

It is noted, however, that much of this concern relates to the overall use of The Farm, rather than specifically relating to the uses proposed in this application.

15

This is, in part, due to the nature and scale of the existing uses which, as outlined above, include a number of approved and unapproved land uses.

5 The applicants' Traffic Engineer has submitted a car parking calculation, based on the requirements of DCP 2014, relating to the existing uses at the site. This assessment concludes a DCP 2014 requirement of 300 car parking spaces.

10 This does not, however, account for the existing conditions of approval that limit site usage to a total of 100 people at any one time. This condition was originally imposed due to concerns regarding the ability of on-site wastewater management system and because of limited parking. It appears that it was also a mechanism by which Council sought to retain a 'low-scale' of use at the site. As outlined above, there are ongoing concerns regarding compliance with this condition.

15 Council's Development Engineer also notes that the RMS have advised that consideration should be given to relocating the site access for The Farm, from its current location to the new roundabout off Ewingsdale Road, at the Byron District Hospital site (see discussion below).

Roads and Maritime Services:

20 *The Farm development is generating significantly more traffic than originally anticipated. This is evidenced by the site specific parking assessment undertaken as part of the Traffic Impact Assessment (TIA). While this increased traffic is unlikely to create problems at the eastern Ewingsdale Interchange roundabout in the short term, the TIA identifies that it will contribute to delay and queuing at the interchange in the longer term. While this delay and queuing also results from background traffic flows; traffic accessing The Farm from Woodford Lane is a factor in delay in the longer term.*

25 *Recent upgrading of the Ewingsdale Interchange has been completed as part of the Tintenbar to Ewingsdale upgrade of the Pacific Highway. The Farm development was approved after the highway upgrade approval and The Farm traffic was not anticipated in the completed interchange design. Any works to improve capacity at this interchange in the future are not readily evident at this time and Roads and Maritime must consider all possible options that can optimise the efficiency and capacity of the interchange into the future.*

30 *A change to the The Farm's primary access location from Woodford Lane to Ewingsdale Road, preferably at the hospital roundabout or perhaps at the planned roundabout at McGettigans Lane, may have benefits for both network efficiency and road safety into the future. Reducing the number traffic movements through the eastern interchange roundabout will improve the efficiency and capacity of the interchange and relocating the access to Ewingsdale Road will improve the visibility of the site access to passing motorists which will likely relieve the current safety problem created by vehicles parking on Ewingsdale Road as they are unclear how to access the site.*

40 *Therefore it is desirable to take this opportunity to consider how the primary access to The Farm can be relocated away from Woodford Lane in the longer term. Roads and Maritime would be happy to discuss this matter further and work with representatives from Council and The Farm if this is considered appropriate.*

Staff Comment:

45 The RMS comments are made in relation to the whole of The Farm, as currently operating. RMS have not specifically commented on the merits or otherwise of the current application. As outlined above, the current approval is conditioned to restrict the number of people on-site at any one time to 100. Compliance with this condition would suggest that the need to relocate the access (and the need for 300 car parking spaces) is questionable.

50 It is clear, however, that the current operation of The Farm is not always compliant with this condition, hence the observations and concerns by RMS and Council's Development Engineer.

55 It is also clear that the issues of traffic and car parking do not relate solely to the current application, whose proposed uses do not generate significant additional traffic levels.

Environmental Health Officer:

Based on an assessment of the current application, Council’s Environmental Health Officer supports the proposed change of use of the existing dwelling to administration building, as this is unlikely to result in any additional load on the existing on-site wastewater management system. The proposed new dwelling is also supported, as information has been submitted demonstrating that a new ‘stand-alone’ wastewater management system for that dwelling can be successfully implemented.

The following comments are provided in relation to the remaining proposed uses:

Given the performance history of the existing wastewater management facility, it is recommended that prior to further consideration of the proposal, the applicant should submit a Detailed Wastewater Management Report prepared by a suitably qualified environmental consultant. In particular, the consultant should assess the quality of influent generated by the proposed bakery, and increased wastewater load from an expansion of the restaurant/café. The report should explore whether the existing system requires further upgrade, and determine whether the irrigation field is sufficiently sized to facilitate disposal of treated wastewaters. Where the system requires upgrade, the consultant should undertake a land capability to determine whether an upgrade is possible on the subject site. Such technical information will allow Council’s EHO to determine whether the existing system can facilitate the additional wastewater generated by the proposal.

Without sufficient technical information prepared by a suitably qualified environmental consultant I am unable to support the proposed change of use from cheese making facility to bakery or increased restaurant / café seating.

Systems Planning, Water

Contributions were calculated in relation to the development approved in DA 10.2013.626 and DA 10.2015.151. To date, no contributions have been paid.

The Bulk Water loads associated with the uses proposed by the current application have been assessed as 17.154ET. Given that this report recommends that only two components of the proposal be approved, the ‘reduced’ ET loads associated with those components would be 3.15ET.

3. SECTION 79C – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES

Having regard for the matters for consideration detailed in Section 79C(1) of the Environmental Planning & Assessment Act 1979, the following is a summary of the evaluation of the issues.

3.1 STATE/REGIONAL PLANNING POLICIES AND INSTRUMENTS

	Satisfactory	Unsatisfactory
State Environmental Planning Policy No 1—Development Standards	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: Not applicable		
State Environmental Planning Policy No 14—Coastal Wetlands	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: There are no Coastal Wetlands in the vicinity of the site.		
State Environmental Planning Policy No 21—Caravan Parks	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: Not applicable		
State Environmental Planning Policy No 26—Littoral	<input checked="" type="checkbox"/>	<input type="checkbox"/>

BYRON SHIRE COUNCIL

	Satisfactory	Unsatisfactory
Rainforests		
Consideration: There are no littoral rainforests in the vicinity of the site (<i>Note; Vegetation in the vicinity of the location of the proposed new dwelling is mapped as "tropical Rainforest", but it is not littoral</i>).		
State Environmental Planning Policy No 30—Intensive Agriculture	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: Applies to proposals for cattle feedlots or piggeries. Not applicable in this case.		
State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: Not applicable.		
State Environmental Planning Policy No 33—Hazardous and Offensive Development	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: The proposed development is not considered to be either potentially hazardous or potentially offensive.		
State Environmental Planning Policy No 36—Manufactured Home Estates	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: Not applicable.		
State Environmental Planning Policy No 44—Koala Habitat Protection	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: The site is not known to contain any koala habitat.		
State Environmental Planning Policy No 50—Canal Estate Development	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: Not applicable.		
State Environmental Planning Policy No 55—Remediation of Land	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: The potential for contamination of land was considered in the assessment of previous application 10.2013.626.1. It was determined that the land was not likely to be contaminated. A further report has been submitted with the current application, focussing on the site of the proposed new dwelling. It confirms that the land in that location is also unlikely to be contaminated.		
State Environmental Planning Policy No 62—Sustainable Aquaculture	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: Not applicable.		
State Environmental Planning Policy No 64—Advertising and Signage	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: No signage is proposed in this application.		
State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: Not applicable.		
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: Not applicable.		
State Environmental Planning Policy No 71—Coastal Protection	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: The site is not within the mapped coastal zone.		
State Environmental Planning Policy (Affordable Rental Housing) 2009	<input checked="" type="checkbox"/>	<input type="checkbox"/>

BYRON SHIRE COUNCIL

	Satisfactory	Unsatisfactory
Consideration: Not applicable.		
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: A BASIX Certificate has been submitted to support the proposed new dwelling.		
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: No aspects of the development constitute exempt or complying development.		
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: Not applicable.		
State Environmental Planning Policy (Infrastructure) 2007	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: Not applicable.		
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: Not applicable.		
State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007 (e.g. 11 Permissibility of erection of temporary structures)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: Not applicable.		
State Environmental Planning Policy (Rural Lands) 2008	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Consideration: In accordance with Clause 10(3), Council must consider <i>whether the proposed development is likely to negatively impact on the preferred or predominant rural land uses in the locality and is compatible with those uses.</i></p> <p>The property is located in an area zoned RU1 Primary Production. There are a number of existing agricultural land uses on the subject land, on adjacent land and in the general vicinity. Submissions have been made by land owners in this area expressing concern regarding the impact of the current operation on their ability to continue their agricultural practices. This issue relates to the nature and scale of the overall use of The Farm.</p> <p>In relation to the current application, the proposed dwelling is located to the east of The Farm building cluster, and well back from the property boundary. Assuming it is used for residential purposes only, it is unlikely to result in impacts on adjoining or nearby rural land uses. The proposed change of use of the existing dwelling to administration is unlikely to result in an increase in the scale of use, and is also not likely to impact on adjoining rural land uses. The proposed bakery is not considered to be likely to result in an overall increase in the scale of use, nor will it impact on adjacent rural land uses.</p> <p>The increased restaurant/ café seating and the increased car parking, however, have the potential to increase the scale of the existing use of the site, increasing the potential for land use conflict in the locality. As such, it is considered that the intensification of use associated with these aspects of the proposal is not consistent with the requirements of the SEPP.</p>		
State Environmental Planning Policy (State and Regional Development) 2011	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: Not applicable.		
State Environmental Planning Policy (Urban Renewal) 2010	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: Not applicable.		

3.2 BYRON LOCAL ENVIRONMENTAL PLAN 2014

Zone: Zone No. RU1 Primary Production

Definitions: *Dwelling, restaurant or café (food and drink premises/ retail premises); rural industry; industrial retail outlet.*

5

LEP Requirement	Summary of Requirements / Comments on Proposal	Complies
Meets zone objectives	<p>Must have regard to the RU1 zone objectives;</p> <ul style="list-style-type: none"> • <i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</i> • <i>To encourage diversity in primary industry enterprises and systems appropriate for the area.</i> • <i>To minimise the fragmentation and alienation of resource lands.</i> • <i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i> • <i>To encourage consolidation of lots for the purposes of primary industry production.</i> • <i>To enable the provision of tourist accommodation, facilities and other small-scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality.</i> ▪ <i>To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality.</i> <p>Parts of the proposal (primarily the additional restaurant seating) are considered to be inconsistent with the objectives of the zone, in that they would result in development of a scale that is not consistent with rural character/ land use.</p>	No
Permissible use	See <i>issues</i> (below).	Yes
Cl. 4.2A Erection of dwelling houses and dual occupancies on land in certain rural zones	See <i>issues</i> (below)	Yes
Cl. 4.3 Height of buildings	9m as specified on the height of buildings map	Yes
Cl.5.4(4) Industrial Retail outlets	<p><i>The retail floor area must not exceed:</i></p> <p><i>(a) 40% of the gross floor area of the industry or rural industry located on the same land as the retail outlet, or</i></p> <p><i>(b)250 square metres,</i></p> <p><i>whichever is the lesser.</i></p> <p>See notes below regarding definitions/ permissibility.</p> <p>The applicant submits that the retail component of the proposed bakery should be defined as an industrial retail outlet.</p> <p>The area identified as the retail component has a floor area of approximately 13m². This is well below the maximum of 46m² (40%) of the total floor area.</p>	Yes

LEP Requirement	Summary of Requirements / Comments on Proposal	Complies
Cl. 6.6 Essential services	<p>Council officers are aware of significant issues associated with poor performance of the existing on-site wastewater management system. Following a number of meetings and discussions, upgrades have been put in place, and monitoring of the system is continuing on a weekly basis. It is understood that adequate performance of the system has still not been achieved on a consistent basis.</p> <p>The applicant has not submitted any technical information to support the proposed change of use for the bakery, nor for the proposed additional restaurant seating or picnic areas, to demonstrate how these aspects of the development might impact on the ongoing performance of the on-site system.</p> <p>Given the current concerns, it is recommended that these aspects of the development not be approved.</p>	No
Cl.6.8 Rural and nature-based tourism development	<p>The Farm constitutes “tourism development” for the purposes of this clause, because, pursuant to part 6 of the clause, “tourism development” includes “restaurants or cafes”.</p> <p>The objective of the clause is <i>to ensure that tourism development in rural and natural areas is small scale and does not adversely impact on the agricultural production, scenic or environmental values of the land.</i></p> <p>“Small scale” is defined in the clause as <i>“a scale that is small enough to be generally managed and operated by the principal owner living on the property”</i>.</p> <p>The Farm, as currently operating, is not consistent with this definition of small scale and the additional uses proposed by the current application, specifically the additional restaurant/ café seating, picnic areas and additional car parking, would increase, rather than decrease, the scale of the operation.</p>	No

Byron Local Environmental Plan 2014 - Issues

Permissibility of uses

5 The application includes: a dwelling-house; administration building (changing the use of an existing dwelling); bakery; additional seating for the existing restaurant/ café (including “picnic areas” for the existing BBQ area and for the café); and “enhancement of onsite car parking facilities”.

10 The following table outlines the relevant definitions contained within in the Byron LEP 2014, and comments on permissibility:

Proposed Use	Definition
Change of use of the approved cheese factory for the purposes of a food production kitchen (bakery)	<p>The application proposes a ‘stand-alone’ use of this part of the existing building as a bakery, involving baking as well as wholesaling and retailing of the bakery goods.</p> <p>The applicant has provided a legal opinion to the effect that the baking component of this use constitutes a rural industry, and more specifically an agricultural produce industry. The opinion also suggests that the retail</p>

component meets the definition of **industrial retail outlet**.

Rural industry means the handling, treating, production, processing, storage or packing of animal or plant agricultural products for commercial purposes, and includes any of the following:

- (a) agricultural produce industries,
- (b) livestock processing industries,
- (c) composting facilities and works (including the production of mushroom substrate),
- (d) sawmill or log processing works,
- (e) stock and sale yards,
- (f) the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise.

Note. Rural industries are not a type of industry—see the definition of that term in this Dictionary.

Agricultural produce industry means a building or place used for the handling, treating, processing or packing, for commercial purposes, of produce from agriculture (including dairy products, seeds, fruit, vegetables or other plant material), and includes wineries, flour mills, cotton seed oil plants, cotton gins, feed mills, cheese and butter factories, and juicing or canning plants, but does not include a livestock processing industry.

Industrial retail outlet means a building or place that:

- (a) is used in conjunction with an industry or rural industry, and
 - (b) is situated on the land on which the industry or rural industry is located, and
 - (c) is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry or rural industry is located,
- but does not include a warehouse or distribution centre.

Discussion:

The applicants' argument turns on whether the baking component of the use can legitimately be defined as an **agricultural produce industry**. In effect, they argue that this is the case because the baking involves the 'processing of produce from agriculture'. They further note that there is nothing in the definition that requires the produce from agriculture must be from the same property.

A subsequent submission amended the plans to add a flour mill into the proposal, whereby the operation proposes to process wheat, brought in from elsewhere, to "make" flour for on-site use. The submission also clarified that "it is anticipated that two thirds of the total produce will be for wholesale sales off site". No information was provided with this submission to detail the proposed flour mill, particularly in relation to its size and scale, the nature of its operation, and clarification of required inputs and outputs. There is no information regarding the quantity of wheat to be brought into the site, its transportation or storage.

Other than nominating two-thirds of the total produce for wholesaling, there is no further detail on the scale of production, transport or storage of products or the wastes likely to be generated.

The applicable definition depends upon the nature of the primary use. If the primary purpose of the bakery is considered to be to sell bread and bakery products, the bakery would be appropriately defined as a **shop**, with the baking component being ancillary to the purpose of selling bread.

shop means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and

includes a neighbourhood shop, but does not include food and drink premises or restricted premises.

Note. Shops are a type of retail premises—see the definition of that term in this Dictionary

Shops (and retail premises) are prohibited in the RU1 zone.

The bakery currently operates on the site. Observation of the current use suggests that it currently meets the definition of shop, as products are displayed for retail purposes in a stand-alone part of the building. Selling of the bread appears to be the primary purpose of this operation.

The inclusion of a flour mill and the suggestion that two-thirds of the product will be wholesaled is the only information that has been provided to indicate how this current operation might transition from what appears to be a wholly retail use (i.e. shop) to the suggested 'agricultural produce industry'.

The applicants' argument, particularly as clarified in the later submission, suggests that the bakery process (to include milling) will be the primary purpose, with the majority of product transported from site for wholesale distribution, and the on-site retailing as a secondary, ancillary, use. As described, such a use could be considered to meet the definition of agricultural produce industry, which is permissible in the zone. As such, the retail component could also be considered as an industrial retail outlet, which is also permissible in the zone.

Proposed Use	Definition
New Dwelling	<i>Dwelling house</i> means a building containing only one dwelling.

Discussion:

Dwelling houses are permissible with consent in the RU1 zone, subject to cl. 4.2A.

Part 5 of cl.4.2A provides *Development consent may be granted for the erection of a dwelling house ... on land to which this clause applies if:*

- a) *there is a lawfully erected dwelling house ... on the land and the dwelling house ... to be erected is intended only to replace the existing dwelling house,*

There is an existing lawfully approved dwelling-house on the land (earliest approval on record is BA 76/2264, which approved additions to the existing dwelling).

There was also a rural worker's dwelling approved on the land (DA 5.1992.525.1). However, consent 10.2015.151 has approved a change of use for that rural workers dwelling to a 'training room'.

Accordingly, a single, approved, dwelling house remains on the land and the current application proposes to change the use of that dwelling-house to an administration centre, and to construct a new dwelling-house to replace this existing one.

The new dwelling-house is therefore permissible pursuant to cl. 4.2A(5).

The floor plan of the proposed dwelling is somewhat unusual, in that it includes five bedrooms, four of which are located as 'attached rooms' off the side of the main building. A condition is therefore recommended prohibiting use of the dwelling for any form of holiday letting or use as a tourist facility.

Proposed Use	Definition
Restaurant	<i>Office premises</i> means a building or place used for the purpose of

administrative back of house *administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.*

Restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

Discussion:

While office premises are not permissible in their own right in the RU1 zone, in this case, the use is proposed to be wholly ancillary to the use of the existing approved restaurant (which is a permissible use).

As such, the proposed use of this existing building for this purpose is permissible.

Proposed Use

Definition

Additional seating for restaurant & "picnic areas"

Restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

Discussion:

The application proposes the addition of 60 seats, consisting of two (2) separate areas (1 x 20 seats and 1 x 40 seats). It also proposes two 'picnic areas'. The application provides no detail on seating arrangements within these picnic areas. The car parking assessment, however, indicates a 'café picnic area' of 382m² and a 'BBQ picnic area' of 244m².

The additional seating is ancillary to the existing approved restaurant/ café and is therefore permissible.

However, Condition No. 47 of the existing approval 10.2013.626.2 limits the use of the site, stating:
Approval is for 90 patrons and 10 staff at any one time.

The additional seating would result in an inconsistency with the terms of the existing approval.

Small Scale Tourism Development

5 The proposed development is tourism development for the purposes of the LEP, as the definition within clause 6.8 specifically includes restaurants and cafes.

10 The nature of the current operation does not meet the definition of small scale as outlined in the LEP, and it is considered that the additional seating and the additional car parking proposed by this application would increase rather than decrease the overall scale of the development.

15 Primarily because The Farm has 'outgrown' the small-scale designation required of the LEP, Council officers have previously suggested to the owners/ operators that the use of the land should be considered within a site-specific LEP amendment, providing for the consideration of a "Master Plan" for The Farm. The provisions of clause 6.8 of the LEP reinforce this advice, as the application does not meet the objectives of the clause in the current circumstances.

Services – On-Site Wastewater Management & Car parking

5 The performance of the existing on-site wastewater management system has been the subject of concern for some time, with Council officers working with the operators to ensure that the system meets the requirements of its Approval to Operate.

At this time, Council is not satisfied that the system is consistently meeting these operating requirements.

10 The applicant has not provided any technical assessment regarding how the proposed bakery, additional seating or picnic areas might impact on the performance of the existing system. In the absence of such information, and given the currently knowledge of performance issues, it is recommended that these aspects of the application be refused.

15 **Draft EPI that is or has been placed on public exhibition and details of which have been notified to the consent authority - Issues**

None applicable.

20 **3.3 DEVELOPMENT CONTROL PLAN 2014**

DCP Clause	Requirement	Complies?
Part B Controls Applying Generally to Development Applications		
B2 Preservation of trees & other vegetation	<p>No trees to be removed. A stand of existing vegetation is located in the north-east of the site, close to the location proposed for the new dwelling, which is mapped as high conservation value vegetation, being tropical rainforest.</p> <p>The construction of the dwelling as proposed will not directly or indirectly impact this vegetation.</p>	N/A
B3 Services	<p><i>Development shall be provided with an adequate water supply connection or have suitable arrangements in place for the provision of an adequate water supply service.</i></p> <p>The proposed new dwelling will be connected to reticulated water supply, while the proposed bakery will be supplied by harvested water (tank).</p> <p><i>Residential, commercial and industrial development that produces sewage and is not to be connected to the urban sewage system must comply with the Council's Design Guidelines for On-Site Sewage Management for Single Households.</i></p> <p><i>A detailed on-site sewage management report may be required with a development application depending upon the scale of the development, the size of the land and distances to watercourses. A report is generally required with a Development Application for systems that service rural dwellings on land less than 1 hectare, rural and rural residential subdivisions creating lots smaller than 5 ha, rural tourist and commercial developments, or for dwellings on constrained land</i></p> <p>The applicant has not provided any technical assessment regarding how the proposed bakery,</p>	No

	<p>additional seating or picnic areas might impact on the performance of the existing on-site wastewater management system. As outlined above, Council officers have concerns that the current system is not consistently meeting the requirements of the current Approval to Operate.</p> <p>In the absence of a further report, and given the current knowledge of performance issues, the additional café seating and picnic areas are not supported.</p>	
<p>B4 Traffic Planning, Vehicle Parking, Circulation and Access</p>	<p>A Parking and Traffic Impact Assessment report has been submitted (Greg Alderson & Associates, 21/03/2016).</p> <p>The report addresses the current uses at the Farm, including the proposed uses.</p> <p>In relation to traffic, it concludes that the impact on Ewingsdale Road traffic volumes is a small percentage of the total traffic volume. It notes that, during non holiday periods, operation of the eastern roundabout at the Ewingsdale Interchange is acceptable, but that, during holiday periods, the roundabout performs poorly. RMS has advised that traffic from The Farm was not considered in the design of this interchange. RMS recommends that consideration be given to relocating vehicular access for The Farm, preferably to the new roundabout at Byron District Hospital.</p> <p>It is difficult to justify relocation of the site access on the basis of this application alone. It is noted, however, that continued growth of the development will require close consideration of this matter.</p> <p>In relation to car parking, the application proposes a quantum of parking that is greater than the number of spaces required by the proposed uses. This demonstrates the scale of the overall operation of The Farm.</p> <p>In addition to car parking numbers, ongoing concerns have been raised regarding dust/ erosion issues from the unsealed car park and internal access. Conditions of previous approvals required sealing of the car parking area, but this has not yet been done. The operators are exploring options for dust management that would not require sealing, but are yet to provide solutions that are acceptable to Council.</p> <p>In the absence of those solutions, approval of additional parking at the site is not supported.</p>	<p>No</p>
<p>B6 Buffers & Land Use Conflict</p>	<p><i>It is the responsibility of applicants for development consent to ensure that potential land use conflicts are identified and managed appropriately.</i></p> <p><i>Development applications must identify potential land use conflicts and must be designed to avoid those conflicts, or to reduce them to acceptable levels.</i></p> <p><i>Where relevant, development applications must demonstrate that the natural and built resources of</i></p>	<p>No</p>

	<p><i>importance to the local, regional or state economy are not unreasonably constrained, impacted or sterilised by the location of incompatible land uses or by the design of new developments.</i></p> <p>Complaints have been received from adjoining rural land owners regarding activities carried out at The Farm and the potential conflict with their agricultural activities.</p> <p>In relation to the development proposed, the upgrade to parking has the potential for land use conflict associated with dust generation, if the parking areas are not appropriately treated.</p> <p>The applicants state that “neighbourhood amenity is likely to be unchanged as a consequence of development in the manner proposed”.</p> <p>While it is agreed that this is the case in relation to the new dwelling, the change of use of the current dwelling to administration, and the bakery, it is considered that the additional café seating and the additional car parking have the potential to negatively impact on the amenity of the area by increasing the scale of the operation.</p>	
B8 Waste Minimisation & Management	The nature of the current application is such that a detailed waste minimisation and management plan is not considered to be required.	Yes
Part C: Further Controls, Specific Constraints & Environmental Characteristics		
C1: Non-Indigenous Heritage	The development does not impact a heritage item nor is the site within a Heritage Conservation area, or in the vicinity of heritage items or conservation areas.	N/A
C2: Areas Affected by Flood	The site is not flood prone land	N/A
C3: Visually Prominent Sites and View Sharing	<p>The site is visually prominent. The nature of the uses proposed within this application will not materially alter the existing development, other than by the addition of a rural dwelling in the eastern part of the land.</p> <p>Overall, it is considered that the subject application will not result in significant visual impacts</p>	Yes
C4: Drinking Water Catchment	The development is not in a drinking water catchment	N/A
Chapter D2 Residential Accommodation and Ancillary Development in Rural Zones		
D2.2 General Provisions		
D2.2.1 Location and siting of residential accommodation and other buildings	<p>The development must be consistent with the relevant Aims, Guiding Principles, Best Practice Guidelines and Performance Standards contained in the Byron Rural Settlement Strategy 1998.</p> <p>The proposed new dwelling replaces an existing dwelling, which is located closer to the remainder of The Farm’s buildings.</p> <p>Given that it is a replacement rather than a new rural dwelling, it is considered to be consistent with the Strategy’s principles, and the proposed location provides</p>	Yes

	better rural amenity for the occupants than the existing location.	
D2.2.2 Setback	The dwelling must be 55m from a classified road & 15m from any other road. The proposed rural dwelling exceeds these setback requirements.	Yes
D2.2.3 Character and visual impact	The character of the proposed dwelling is considered to be consistent with the principles outlined in this section. It is located well back from the road frontage and is generally consistent with the rural character of dwellings in the locality.	Y
D2.3 Dwelling Houses		
D2.3.1 On-Site Car parking and Vehicle Access	See comments on Chapter B4 above.	No
D2.3.2 Recycling and Waste Management and On-Site Sewage Management	See comments on Chapter B3 above relating to on-site sewage management. In terms of waste, the applicant states that " <i>The Farm is an existing operational facility which adopts best practice standards in terms of the storage recycling and composting of material in a sustainable way</i> ". While no further details have been provided regarding general waste management, a condition can be imposed requiring detail with submission of an application for Construction Certificate.	No

3.4 Any Planning Agreement or Draft Planning Agreement?

	Yes	No
Is there any applicable planning agreement or draft planning agreement?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Consideration: Not applicable		

5 **3.5 Environmental Planning & Assessment Regulation 2000 Considerations**

Clause	This control is applicable to the proposal:	If this control is applicable, does the proposal comply:
92	No	N/A
93	Yes	No information submitted to address fire safety considerations. Approval can be conditioned to require reporting prior to occupation certificate.
94	No	N/A
94A	No	N/A

3.6 Any coastal zone management plan?

	Satisfactory	Unsatisfactory	Not applicable
Is there any applicable coastal zone management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Consideration: None applicable.			

10

3.7 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Impact on:	Likely significant impact/s?
Natural environment	No. The proposal will not have a significantly adverse impact on the natural environment of the locality.
Built environment	No. The proposal will not have a significantly adverse impact on the built environment of the locality.
Social Environment	No. The proposal will not have a significant social impact on the locality.
Economic impact	No. The proposal will not have a significant economic impact on the locality.

3.8 The suitability of the site for the development

The application proposes additions to the existing development known as The Farm. Whilst the site is generally suitable for the uses proposed, concerns remain regarding the ongoing performance of the existing on-site wastewater management system and the emission of dust from the car parking areas.

Previous consents have also been conditioned to limit the number of people on-site, and compliance with these conditions has proven to be problematic.

3.9 Submissions made in accordance with this Act or the regulations

There were 6 submissions made on the development application all of which were against the proposed development.

Issue	Specific Comments
Potential land use conflicts	<ul style="list-style-type: none"> Loss of privacy to adjoining owners Noise, in particular relating to temporary events that may result from the development, should it be approved Proposed dwelling close to adjoining macadamia processing facility, which operates 7am to 10pm daily Proposed expansion of car parking area brings this closer to existing macadamia plantation on adjoining land – potential for land use conflict associated with spraying of the plantation <p>Comments: Issues associated with unapproved uses (e.g. events) are being addressed though Council's compliance section. It is noted that private functions can be carried out within the existing restaurant without the need for further approvals, subject to compliance with the conditions of consent. Functions/events separate to the restaurant use are otherwise prohibited in the zone. Discussions have occurred with the owners and their consultants about the need to apply for an LEP amendment for such a use/s to be considered. Potentially, expansion of existing seating (including the proposed picnic areas) has the potential to result in larger events. As outlined above, the proposed additional seating increases the scale of the overall operation at The Farm, which is considered to be inconsistent with the definition of "small scale"</p>

Issue	Specific Comments
	<p>as outlined in clause 6.8 of LEP 2014.</p> <p>The proposed dwelling is located well away from adjoining property boundaries and its location is considered to be acceptable in relation to existing and likely adjoining uses.</p> <p>The additional car parking areas are not supported for reasons outlined in this report.</p>
Traffic management & parking	<ul style="list-style-type: none"> • Impacts on Ewingsdale Road Intersection • Lack of detail regarding how increased parking area is to be managed (dust in particular) • Concern that additional parking does not relate to change of use as proposed, and that it reflects on existing uses that are in excess of previous conditions limiting the number of patrons <p>Comments:</p> <p>See comments and discussion elsewhere in this report regarding traffic and car parking issues.</p>
Environmental Issues (waste management, contamination)	<ul style="list-style-type: none"> • Suitability of onsite system to manage anticipated increase in patronage (including other events) • Impacts on Simpsons Creek with regard to wastewater disposal • Site contamination & an existing Dip site under the children's playground <p>Comments:</p> <p>The adequacy of the existing wastewater system is being addressed separately to this application. However, concern remains that the system is not consistently complying with the requirements of its Approval to Operate.</p> <p>The proposed on-site system for the new dwelling has been assessed and is considered to be acceptable.</p> <p>The children's play area was approved under previous consents.</p>
The proposed dwelling	<ul style="list-style-type: none"> • Future use of the proposed dwelling, suspicions that it will be used for events • Submissions noted the commercial pizza oven in questioning the intended use of the dwelling <p>Comments:</p> <p>The design of the proposed dwelling is somewhat unusual in the number of layout of bedrooms.</p> <p>The applicant states that the dwelling is for the land owner. A condition is recommended limiting the building to residential use only (i.e. Class 1A) and prohibiting any tourism or short-term holiday use.</p>
The café	<ul style="list-style-type: none"> • The size and scale of the café is operating beyond its approved 90 patrons & 10 staff • The lack of detail to determine what the requested increase of patronage is • Questions relating to the picnic area and what the potential patronage equates to • Lack of detail regarding the purpose of the food production

Issue	Specific Comments
	kitchen Comments: The additional café seating is not supported for reasons outlined elsewhere in this report.
Other non-conforming uses	<ul style="list-style-type: none"> • Issues in relation to the existing approval and non-conforming activities including the retail component, functions and the nature of the café being not an ancillary use to the agricultural land use • Non-conforming (tourist) uses impacting on existing agricultural activities of neighbouring farms. • The Farm sets a precedent of non-agricultural uses in RU1 Primary Production zone • Existing on-site sewage system located close to neighbours land. • Noise associated with events at the site Comments: Allegations of non-conforming land uses are being addressed separately to this application.

3.10 Public interest

5 Aspects of the development raise issues in relation to public interest, relating primarily to the scale of the development and ongoing issues associated with wastewater management and dust control.

4. DEVELOPER CONTRIBUTIONS

4.1 Water & Sewer Levies

10 The development would result in an increase in the load on Bulk Water services and therefore a contribution will be required for this service.

4.2 Section 94 Contributions

15 Given the nature of the proposed development, a section 94A levy is payable, in accordance with the provisions of Byron Developer Contributions Plan 2012.

5. CONCLUSION

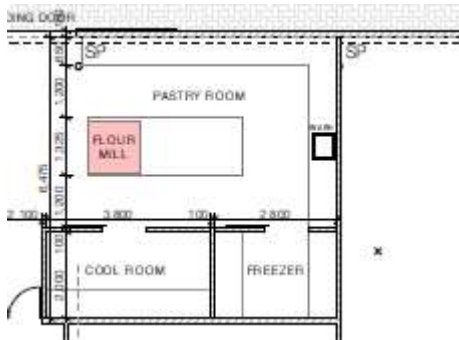
20 The application consists of a number of components, each of which is addressed below:

Change of use – cheese making facility to bakery:

25 As outlined above, the definition of the bakery as ‘agricultural produce industry’ remains questionable. The current operation appears to more appropriately meet the definition of ‘shop’, which has been the definition applied to bakeries generally. The applicants have provided a submission to the effect that, as proposed, the bakery constitutes an *agricultural produce industry* (i.e. *rural industry*), with an ancillary *industrial retail outlet*.

30 The inclusion of an on-site flour mill and the wholesaling of the majority of product alters the nature of the operation, from one where the primary purpose is retailing of the product, to a processing activity. The distinction, however, is subject to interpretation and there is certainly an element of ‘overlap’ between the definitions.

The applicants' submission does not provide detail to clarify the scale of operation. The flour mill is shown within the bakery floor plan as a small square on what looks to be an island bench (see below).



5

No information has been submitted to provide detail of the proposed operation, i.e. what inputs are to be used, in what quantities etc. There is no information regarding transport or storage of either the agricultural produce to be brought to site nor the products to be wholesaled.

10

In the context of the scale of the operation as a whole, it is considered that such detail is required not only to ensure that the proposed use appropriately meets the definition of agricultural produce industry but also to assist in the assessment of the overall scale of the activities being proposed on-site and the consistency with the RU1 zone objectives.

15

Another significant concern is that the applicant has not provided any information regarding the potential impacts of the proposed change of use on the operation and performance of the existing on-site wastewater management system.

20

In June, the applicants were requested to clarify the water supply proposed for the bakery and also to address how trade waste from the operation would be dealt with. The context of that request is the ongoing concerns that the existing wastewater system is not consistently meeting the requirements of its Approval to Operate. It is therefore important that the implications of the proposed change of use are assessed in detail.

25

In the absence of such information, the proposed change of use from a cheese making facility to a bakery is not supported.

Expansion of restaurant seating:

30

The current application does not indicate how the proposed additional 60 seats would impact on the existing on-site wastewater management system. It is also noted that current approval conditions limit the use of the site to a maximum of 100 people. The applicant argues that this restriction is no longer required, but does not justify that argument, particularly in regard to wastewater management.

35

The addition of 60 seats as proposed would take the total approved seat numbers to at least 132 (72 seats approved 10.2013.626.1 + 60 additional).

40

In the absence of information demonstrating that the additional site usage facilitated by the increased seating will not negatively impact the performance of the existing on-site wastewater management system, the additional seating is not supported.

45

Further, the additional seating capacity increases the overall scale of the operation, which is considered to be inconsistent with the definition of 'small scale', which is a requirement within clause 6.8 of BLEP 2014 for tourism development in the rural area (which, by definition, includes restaurants and cafes).

Provision of picnic areas:

5 No information is provided to indicate how these areas are proposed to be used, or how many people are likely to be accommodated in these areas. However, it is assumed that they would be used for casual seating in conjunction with the existing restaurant/ café.

10 In the absence of information demonstrating that the additional site usage facilitated by the picnic areas will not negatively impact the performance of the existing on-site wastewater management system, approval for these areas is not supported.

The additional capacity of the picnic areas also increases the overall scale of the operation, contrary to the provisions of clause 6.8 of BLEP 2014.

Change of use – dwelling to administration:

15 The proposed administration building is to be used in conjunction with the existing approved restaurant/ café. As such, it is permissible in the zone. The building is currently connected to the on-site wastewater management system, but it is considered that the change of use from dwelling to administration is unlikely to result in the generation of additional loads on that system.

20 The change of use to administration can be supported.

New dwelling:

25 The proposed dwelling is permissible with consent, as a replacement for the existing dwelling, which is to be converted to administration use. Concern has been expressed that its design lends itself to events/ tourism use; however the applicant states that it is to be used by the land owner.

30 The new dwelling is supported, subject to a condition that it must remain as a Class 1A building, and is not to be used at any time holiday letting or any other temporary accommodation or tourism use.

Car Parking:

35 The additional car parking proposed does not directly relate to the change of uses proposed and it raises the potential for ongoing compliance issues associated with dust generation and in relation to the existing conditions of approval that limit site patrons.

40 The additional parking increases the overall scale of the operation, which is considered to be inconsistent with the definition of 'small scale', a requirement within clause 6.8 of BLEP 2014 for tourism development in the rural area (which, by definition, includes restaurants and cafes).

The additional car parking is not supported.

6. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

Has a Disclosure Statement been received in relation to this application	No
Have staff received a 'gift' from anyone involved in this application that needs to be disclosed. Where the answer is yes, the application is to be determined by the Director or Manager of the Planning, Development and Environment Division.	No

Report No. 13.18 **Tweed Rail Trail extension to Billinudgel**
Directorate: Sustainable Environment and Economy
Report Author: Jane Laverty, Economic Development and Tourism Coordinator
File No: I2016/883
5 **Theme:** Economy
 Economic Development

Summary:

10 This report seeks Council support to progress a partnership with Tweed Shire Council to extend the Tweed Stage Rail Trail project concept (Murwillumbah to Crabbes Creek) through to Billinudgel, an extension of 4.9km.

15 The extended Rail Trail project will enable North Byron Shire communities to grow their visitor economy opportunities for both existing and new enterprises.

20 The partnership with Tweed Shire Council will initiate collaborative funding submissions to State and Federal Governments to support the project. If any additional funds are required from Byron Shire Council a proposal would be reported to Council.

RECOMMENDATION:

That Council progress a partnership with Tweed Shire Council to extend the Tweed Rail Trail project concept (Murwillumbah to Crabbes Creek) through to Billinudgel, an extension of 4.9km.

Attachments:

- 25
- 1 Byron Section of Rail Trail Mapping - Low res, E2016/75471
 - 2 Cost Estimate - Trail Extension - On Rail Formation, E2016/75472
 - 3 Cost Estimate - Trail Extension - Off Rail Formation, E2016/75473
 - 4 NRRT Tweed Stage - Business Case - Feb 2016 - Compressed, E2016/75474
- 30

Report

Background

5 The Northern Rivers Rail Trail project (and incorporated association) was initiated in 2013 to garner support for the development of a local rail trail to stimulate the local economy across the region. In 2014, a rail trail feasibility study of the suspended rail line between Casino and Murwillumbah was commissioned by the State Government and prepared by ARUP. The report indicated the viability of a rail trail concept and led to the NSW Department of Industry, through their Regional Tourism Infrastructure Fund (RTIF) calling for expressions of interest for rail trail projects.

10 The Northern Rivers Rail Trail group, supported by Richmond Valley, Lismore, Bryon and Tweed Shire Councils, prepared a submission for the construction of a rail trail from Casino to Murwillumbah (132km). This submission was not successful however Tweed Shire Council resolved to develop the Tweed Stage of the trail from Murwillumbah to the Crabbes Creek (Wooyung Road) and seek out other funding opportunities. Tweed Shire currently has funding submissions pending.

15 Globally, Rail Trail projects have been very successful; however it is important to note that most projects find it necessary to create the trail on the rail formation due to the terrain constraints and the importance of retaining the best visual experience.

20 The intent of the rail trail is to provide an experience for locals and visitors by way of walking, bike riding, horseriding or other forms of recreational transport e.g. segways and scooters on unused railway routes and engaging in experiences along the way such as café's, museums and on-farm .

The Tweed Shire project

25 Tweed Shire Council has developed a business case for the Murwillumbah to Crabbes Creek trail, approximately 24 kilometers in length, commencing from the Murwillumbah Railway Station. The business case links successful outcomes of the project to investment and jobs, growing visitor experiences, expanding services, local amenity and health/wellbeing; along with environmental benefits for the habitat and wildlife corridor.

30 The current plans for the Tweed project see the rail trail concluding at the Wooyung Road boundary at Crabbes Creek.

Extending the trail option

Byron Shire Council has an opportunity to work with the Tweed Shire to extend the rail trail from Wooyung Road to Billinudgel township at Wilfred Street, approximately an additional 4.9km.

35 Tweed Shire Council engineering staff have undertaken an assessment of the track conditions for the Byron section and the options for extending the rail trail. Tweed Council's engineer has determined that it would be 'extremely difficult' to create a trail off the track formation and believes only 20% of the section would allow for an off-track trail.

40 The following costs and assumptions along with attached support material have been provided for both an on track formation and off track formation. However it is deemed in the interests of the experience and the impact to the local environment that the on track formation be pursued.

1. Trail on rail formation (as per the Tweed section) - \$3,060,000
2. Retain Rail Infrastructure with Trail Adjacent = \$4,750,000

45 The off-formation option is extremely challenging. It requires extensive earthworks to achieve suitable grades and to construct a platform for the trail in low lying areas. It also requires people to jump back and forth either side of the rail alignment to find a satisfactory route. In some places there is no practical alternative route adjacent to the tracks (i.e. tunnels, narrow cuttings).

The estimate does not include any allowance for dewatering/ground improvement/environmental issues etc associated with traversing the swamp north of Billinudgel (not an issue if you stay on

formation). Assumed flooding constraints would preclude any low structures over Marshall's creek and there would be a need to duplicate the bridge.

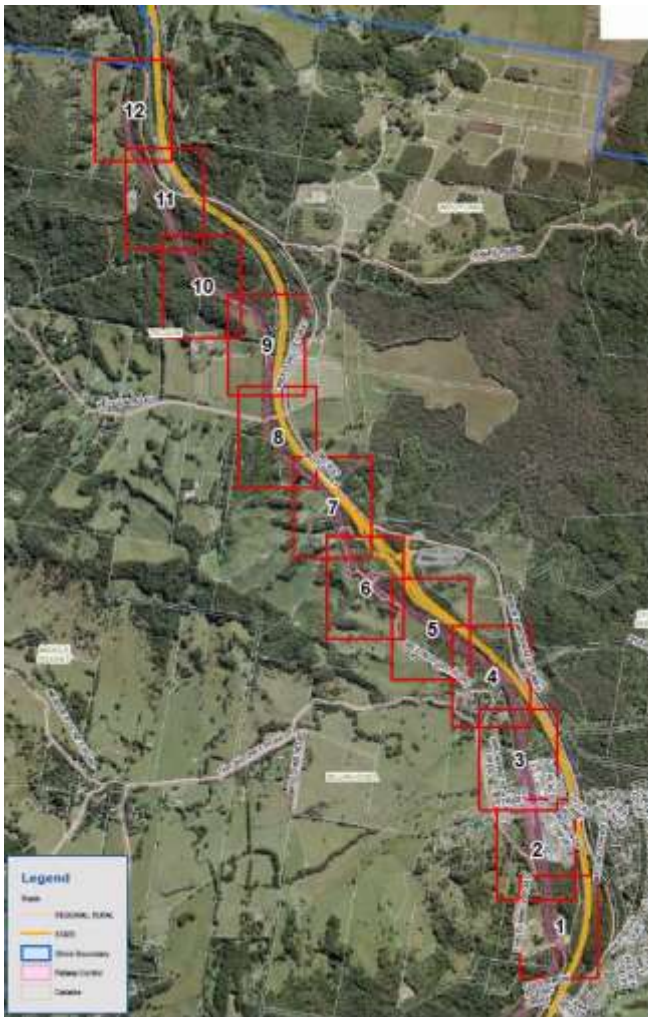
5 A slightly higher contingency has been applied to the off-formation option (20% as opposed to 15%) due to the greater assumptions and additional uncertainty associated. The off-formation option requires removal of significant mature vegetation. On-formation generally only requires removal of weeds. For the majority of the off-formation option the user will be down below the level of the rail embankment (i.e. 50% less view) resulting in reduced trail amenity/attractiveness.

Rail Trail partnership – Murwillumbah to Billinudgel

10 Byron Shire Council staff propose a partnership with Tweed Shire Council to attract funding for the rail trail project from Murwillumbah to Billinudgel on the basis of the on- rail formation option.

Byron Shire Council staff would undertake to engage with landholders in the Byron Shire along the 4.9km trail and gather feedback on the proposal.

15 Byron Shire Council would also undertake to explore the social, environmental and economic opportunities that can be achieved for communities and residents in the North of the Shire through the extended Rail Trail project and involve key stakeholders in this discussion.



Financial Implications

Any undertaking for project funds from Byron Shire Council will be reported to Council.

20 **Statutory and Policy Compliance Implications**

Nil

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.19 Small Steps to Healthier Rural Roadsides

Directorate: Infrastructure Services

5 **Report Author:** Michael Matthews, Manager Open Space and Resource Recovery
Tony Nash, Manager Works

File No: I2016/777

10 **Theme:** Community Infrastructure
Local Roads and Drainage

Summary:

15 At the Ordinary Meeting held 9 June 2016, Council resolved (16-303) to develop a Rural Infrastructure Protections Strategy (RIPS) as an adjunct to the Byron Shire Integrated Weed Management Strategy.

RECOMMENDATION:

20 **That the report be noted and prescribed actions for initiating the RIPS be endorsed.**

Report

At the Ordinary Meeting held 9 June 2016, Council resolved

5 **16-303 Resolved:**

1. *That Council develop a Rural Infrastructure Protection Strategy (RIPS) as an adjunct to the Byron Shire Integrated Weed Management Strategy with the following Vision:*

10 *Rural roadsides and infrastructure managed to progressively increase self sustaining native vegetation, reduce chemical and slashing weed control and support the community to care for roadside vegetation.*

- 15 2. *That objectives of a RIPS include:*

- 15 a) *Reduced chemical control of vegetation.*
 15 b) *Greater protection of HCV and expansion of biodiversity.*
 15 c) *Enhanced support for residents and community groups to participate in roadside management.*
 20 d) *Improved work practices to support these objectives.*
 20 e) *Expanded use of GIS to map roadsides and manage.*

3. *That the following actions be considered as part of a RIPS:*

- 25 a) *Mobile, on site and updatable GIS for all roadside managers.*
 25 b) *Provide funding to build community capacity to be able to undertake 'certified' tasks such as 'stop, go' traffic controllers to support safe working environments for volunteers.*
 30 c) *Allowing residents caring for road frontage to opt out of roadside vegetation management.*
 30 d) *Measures to improve co-ordination with Far North Coast Weeds (FNCW).*
 30 e) *Program to support volunteer residents and community groups to develop local roadside management plans.*

- 35 4. *That the approach to developing RIPS be adaptive building on existing plans, actions and funds and that it be based on a review of the Roadside Vegetation Management Plan (RVMP) to incorporate the above objectives, develop an action and funding plan.*

- 40 5. *That Council receive a report at the 4 August meeting:*

- 40 a) *setting out a pathway to complete and implement a RIPS.*
 40 b) *providing advice on actions in the RVMP that are currently funded.*
 40 c) *identifying actions in the RVMP that could be adapted and or funded to meet the RIPS objectives.*
 45 d) *preliminary assessment of clause 3 actions.*

Report

- 50 1. The Roadside Vegetation Management Plan (RVMP) is based on a survey undertaken that captured site specific information of the Shires rural roadsides. The primary intent of the survey was to map natural assets for the purpose of identifying the most appropriate maintenance management technique. Information from this survey has been analysed and appropriate treatment methods assigned to each section of road corridor. Operational maintenance techniques range from bush regeneration for areas adjacent to high conservation value vegetation to tractor slashing and side-arm mower slashing for areas
 55 with low conservation value. It is believed that when used to its full capacity, the RVMP can

be used to achieve many of the objectives of the RIPS. Treatments that have evolved from the RVMP are currently being used, for example areas identified as HCV are currently being treated using bush regeneration methods only.

5 Where a community group or adjoining property owner approaches council to manage a section of road, Council generally support their efforts through the provision of appropriate training and materials. Formalisation of this this is through Councils policy, *Care of Public Land by the Community* (E2012/13488). This policy provides the community with the framework for application to take on stewardship for an area.

10 Once the group has been formalised, the site on which they are to maintain and or treat is identified on Councils GIS as spatial area being under the care of community. These formalised areas are to be included as a spatial constraints feature for planning assessment for capital works and operational and maintenance programs.

15 Two (2) primary means to achieve the reduction of herbicide use on rural roadsides is through mechanical vegetation control and or the use of bush regeneration methods

20 The RVMP advocates all of these methods but recommends that these treatments are prioritised in areas of HCV and adopted in non HCV areas in descending order of conservation value, as resource and budget allows.

25 Where HCV was identified by the roadside vegetation survey, roadside identification markers have been installed to indicate to operators that they are in the presence of notable vegetation where alternative vegetation control methodology is to be used. Operators are also equipped with spatial maps showing these attributes. It is envisaged that future operational tools will include the provision of GPS in vehicle monitoring system where sites highlighted can be highlighted by a geo-fence (a spatial fence around an area that triggers communication to plant operator)

30 Upon application to care for public land, a council officer will assess and prepare a simple management plan of sufficient scope that provides Councils expectations in managing the area. Where it is identified that traffic controls will be required, council will consider providing accredited traffic control training and the supply of appropriate signs.

35 Council has a responsibility to manage roadsides that protects the assets integrity and achieves road safety standards. Council is also obligated to undertake its operations efficiently.

40 Where Council officers are satisfied those standards can be maintained by the volunteer group then volunteerism is largely supported. In the event that Councils responsibilities are likely to be compromised, then approval shall not be granted. In the event where an activity has been granted and performance does not meet Council expectations, then intervention will be required through a consultative process.

45 It is considered that the development of RIPS will be made easier through awareness of the *Care of Public Land by the Community* Policy and past experience in facilitating the attendance of volunteers at training such as Traffic Control. The RVMP provides the survey of vegetation and prioritises its value based on ecological attributes, the methodology that it suggests for maintaining the roadside is based on what was available at the time, should new resources or techniques be identified these can be adapted into the maintenance regime. Where alternative methods of
50 vegetation control are proposed the financial, safety and program implications will need consideration on a case by case basis.



Signs provided to the Huonbrook Chemical Free Landcare group

5 To complete and implement the proposed Rural Infrastructure Protection Strategy, the following actions are required;

- Publicise the potential for residents to manage their own road frontage and call for expressions of interest.
- Staff evaluation of nominated site for practicality of volunteers working in close proximity to roadside, benefits to the community of the land being managed in an alternative manner and presented capacity to maintain the assets integrity.
- Staff to develop a site specific management plan with the proponent.
- Staff and volunteers to undertake a risk assessment of the works program and apply a hierarchy of controls to eliminate or minimise risk.
- Volunteers, where required, to be enrolled in any necessary training, for example Implementing Traffic Control Plans.
- Equipment required such as signs assigned to the volunteers as agreed
- GIS Officer to include approved areas as a spatial constraints layer.
- Council bush regenerators and road inspection staff to routinely monitor site as to the success or otherwise of newly adopted methods intervention action if required.

20

Financial Implications

Not known until level of interest in voluntary roadside management ascertained.

25 **Statutory and Policy Compliance Implications**

The review shall consider, but not be limited to, the following:

- Roads Act 1993, specifically to local roads authority obligations
- Native vegetation Act 2013 and its subordinate legislation
- Environmental Protection and Biodiversity Conservation Act 1999
- Local Government Act 1993
- Heritage Act 1977

30

Report No. 13.20 **Update on Proposed Road and Bridge Names**
Directorate: Infrastructure Services
Report Author: Shannon Manning, Traffic and Transport Administration Assistant
File No: I2016/780
5 **Theme:** Community Infrastructure
 Local Roads and Drainage

Summary:

10 To provide an update to Council on the various stages of a number of road and bridge naming processes, including the outcome of community consultation and submissions to NSW Land and Property Information (LPI).
15

RECOMMENDATION:

1. That the road names proposed in Table 4 of this report be submitted to the NSW Land and Property Information (LPI) for concurrence, and if gained, for gazettal.
2. That Council accept the Arakwal Memorandum of Understanding Advisory Committees objection to the proposed road name 'Gali', and endorse that the alternative names of 'Balun' and 'Jalum' be submitted to the LPI for concurrence, and if gained, gazettal.
3. That further consultation be undertaken with the adjacent property owners regarding the proposal to name the unnamed lane running between Cedar Street and Myokum Street, Mullumbimby and the results reported back to Council.
4. That there be no change to the road name of Short Street, New Brighton.
5. That the submissions received, as listed in Table 5 of this report, be considered as part of the upcoming review of the Street Name Register.
6. That responses be provided to all the submissions received.

20

Report

The road name proposals detailed in Table 1 have been submitted to NSW Land and Property Information (LPI) and Geographical Names Board (GNB) for concurrence, and subsequently submitted for Gazettal. New street signage has been installed and at the time of writing this report advertising was being undertaken to give notice that Byron Shire Council has officially named these roads. This will then officially complete all processes associated with the renaming of these roads.

10

Table 1: Approved & Gazetted Road and Bridge Names	
Bangalow	
	Wiley Road (RMS have confirmed signage has been installed)
Billinudgel	
	Lloyd Poynting Bridge
Byron Bay	
	Arakwal Court
	Arrow Head Lane
	Coolalie Place
Clunes to Yelgun	
	Hinterland Way (RMS have confirmed signage has been installed)
Mullumbimby	
	Bridgland Lane
	Cenotaph Lane
	Davidson Lane
	Harkness Lane
	Hollingsworth Lane
	Murphys Lane
	Riley Lane
	Torrens Lane
	Ward Lane
Myocum	
	Mckenzie's Lane
New Brighton	
	North Head Road
Ocean Shores	
	Smokey Valley Way
Tyagarah	
	Staceys Way

As per Resolution 15-598 from the Council meeting on 19 November 2015, advertisements of the endorsed alternative road names have been advertised, as shown in Table 2, for a twenty-eight (28) day exhibition period. Coinciding with advertising in Council's public notice section of the local newspaper, letters were sent separately to both the owners and occupiers of the properties adjacent to subject roads.

Res 15-598

1. That Table 1 be amended by substituting "Mud Brick Lane" for "Harpoon Lane" at Main Arm.
2. That as per Table 1 in this report (I2015/1249) Council accept the NSW Land and Property Information (LPI) objection to names as listed, and endorse that the Alternative names, as amended in point 1 above, be subject to further community consultation (28 days) and if accepted, be submitted to the LPI for concurrence.

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3. That if submissions are received on any of the names, those be provided to the LPI and then reported back to Council.
4. That the names proposed for Lanes 1, 2, 7, 9, 10, 11, 12, 13, 14, and 15 Mullumbimby be submitted to the LPI for concurrence, and if gained, for gazettal.
5. The matters regarding Shady Lane, Brunswick Heads be noted and progressed including endorsement of Eucalyptus Lane to be lodged for LPI approval and gazettal.

Table 2: Council endorsed alternative road names		
	Current Road Name	Council Endorsed Road Name
Brunswick Heads		
	Lane 3	Sharpcott Lane
	Lane 4 (east)	Whittall Lane
	Lane 4 (west)	Ring Lane
	Lane 5	Galleon Lane
	Lane 6	Nelson Lane
	Lane 7	Slessor Lane
	Lane 8	Gali Lane
Byron Bay		
	Lane 6	Keesing Lane
	Lane 16	Williams Lane
	Lane 18	Lateen Lane
	Unnamed STP Road	Wallum Place
Main Arm		
	Unnamed Road 3	Mud Brick Road
Mullumbimby		
	Lane 11	Richards Lane
	Unnamed Lane (running between Cedar Street and Myokum Street)	Gumnut Lane
New Brighton		
	Short Street	Mangrove Street
Tyagarah		
	Unnamed Lane (connecting to the end of Foxs Lane)	Foxs Lane

10 The community consultation process resulted in Council receiving a total of thirty-three (33) submissions, as detailed in Table 3, including one (1) late submission received 12 July 2016. All submissions have been documented and taken into consideration.

Table 3: Summary of submissions			
#	File	Lane/s	Details of Submission
1	E2016/27549	Brunswick Heads (all)	Proposed alternate names - aboriginal names
2	E2016/29185	Brunswick Heads (all)	To reflect local aboriginal history & language
3	E2016/29937 & E2016/30377	Brunswick Heads (all)	Proposed alternate names – historic families of Brunswick Heads & aboriginal names
4	E2016/30511	Brunswick Heads (all)	To reflect local aboriginal names for animals or people from the area & early local identities
5	E2016/31073	Brunswick Heads (all)	Opposed – lack of community consultation, Council Street Name Register has no relevance to Brunswick Heads & some of the proposed names may cause confusion
6	E2016/33441	Brunswick Heads (all)	Proposed alternate name – Farrugia Lane
7	S2016/5538	Brunswick Heads (all)	Proposed alternate name – Bate Lane

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8	S2016/5850	Brunswick Heads (all)	Proposed alternate names – local birds & marine life
9	E2016/34366	Brunswick Heads Lane 3	Proposed alternate name – Oyster Lane
10	S2016/6883	Brunswick Heads (all)	Proposed alternate names – pioneer families of Brunswick Heads
11	E2016/27544	Brunswick Heads Lane 3	Proposed alternate name – Hudson Lane
12	E2016/27545	Brunswick Heads Lane 3 & Lane 4	Proposed alternate name – Plimsoll Lane & Grandma Lane
13	E2016/33423	Brunswick Heads Lane 3	Proposed alternate name – Oyster Lane
14	E2016/30649	Brunswick Heads (all)	Proposed alternate names – local native plants, indigenous culture & historical events
15	E2016/30088	Brunswick Heads Lane 4 (west) & Lane 5	Proposed alternate names – Backo Lane, Coral Lane, Melaleuca Lane & Cooper Lane
16	E2016/29188	Brunswick Heads Lane 7	Proposed alternate name – Percy Hale Sheaffe
17	E2016/27543	Brunswick Heads Lane 8	Opposed – Gali Lane Proposed alternate names – Cedar Lane & Endeavour Lane
18	E2016/30509	Brunswick Heads Lane 8	Opposed – Gali Lane
19	E2016/34028	Brunswick Heads Lane 8	Proposed alternate name – Farrugia Lane
20	E2016/50002	Brunswick Heads Lane 8	Opposed – Gali Lane Proposed alternate names – Jalum Lane & Balun Lane
21	E2016/31074	Byron Bay (all)	Proposed alternate name – Meston Lane
22	E2016/31075	Byron Bay (all)	Proposed alternate name – Stephens Lane
23	E2016/31456	Byron Bay (all)	Proposed alternate names – Maris Lane, Meston Lane, Murray Lane & Stephens
24	E2016/32696	Byron Bay (all)	Proposed alternate names – Belleair Lane, Porter Lane & Shakespeare Lane
25	E2016/31076	Mullumbimby Lane 11	Proposed alternate name – Sigley Lane
26	E2016/28870	Mullumbimby Proposed Gumnut Lane	Opposed – DA for recent subdivision has conditions regarding service access via the lane, the proposed name has no relevance & further consultation with adjacent properties should take place
27	E2016/27542	Mullumbimby Proposed Gumnut Lane	Opposed – DA for recent subdivision has conditions regarding service access via the lane & the proposed name has no relevance
28	E2016/32267	Mullumbimby Proposed Gumnut Lane	Opposed - DA for recent subdivision has conditions regarding service access via the lane & the proposed name has no relevance
29	E2016/24387	New Brighton Short Street	Opposed – wants the street to remain Short Street, there are other duplicate street names with the Shire & impact on residents
30	S2016/5050	New Brighton Short Street	Opposed – wants the street to remain Short Street, compassionate grounds & petition attached with 16 signatures supporting request
31	S2016/5052	New Brighton	Opposed - wants the street to remain Short

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		Short Street	Street, there are other duplicate street names with the Shire & impact on residents
32	E2016/63792	Byron Bay Proposed Wallum Place	Late submission received 12 July 2016: Proposed alternate name – Sunset Boulevard
33	E2016/19275	Tyagarah Extension of Foxs Lane	Proposed alternate names – theme to reflect classic children's' tales

5 The consultation process has been completed and pre-approval received from NSW Land and Property Information (LPI). It is recommended that the following Council endorsed road names, as detailed in Table 4, proceed with publishing of a notice of the new name/s in the NSW Government Gazette and local newspaper and that all locations be signposted.

Table 4: New road names for gazettal	
Current Road Name	Council Endorsed Road Name
Brunswick Heads	
Lane 3	Sharpcott Lane
Lane 4 (east)	Whittall Lane
Lane 4 (west)	Ring Lane
Lane 5	Galleon Lane
Lane 6	Nelson Lane
Lane 7	Slessor Lane
Byron Bay	
Lane 6	Keesing Lane
Lane 16	Williams Lane
Lane 18	Lateen Lane
Unnamed STP Road	Wallum Place
Main Arm	
Unnamed Road 3	Mud Brick Road
Mullumbimby	
Lane 11	Richards Lane
Tyagarah	
Unnamed Lane (connecting to the end of Foxs Lane)	Foxs Lane

10 It is noted that should Council not wish to proceed with any of the proposed road names, as listed in Table 4, then alternate road names would need to be proposed; resulting in the approval and consultation process recommencing. This would have financial and timeframe implications.

Lane 8, Brunswick Heads – Proposed Gali Lane:

15 After consideration at the Arakwal Memorandum of Understanding Advisory Committee on 25 May 2016, the Committee recommended:

Report No. 5.3 Road naming Proposal - Gali Lane
File No: I2016/483

Committee Recommendation 5.3

That the Arakwal Memorandum of Understanding Advisory Committee:

1. *Recommend to Council that the renaming of Lane 8 to Gali Lane not proceed.*
2. *Request the Arakwal Corporation to provide some Arakwal Bundjalung names as suggestions for the renaming of Lane 8, in line with Council operational deadlines.*

3. *Request that Council staff involved in the maintenance of the names register be invited to a meeting to discuss the name choosing process.*

Considering that the streets are close to the Brunswick River the Arakwal MoU Advisory Committee has proposed the following alternate road names:

- 5
- Balun Lane (River)
 - Jalum Lane (Fish)

10 Following community consultation, which indicated the preference for names to reflect the original residents, custodians and culture of our Shire, it is recommended that the Council submit the alternative name of 'Balun Lane' to the LPI for concurrence, and if gained, for gazettal. In the event that an objection is received from the LPI then it is proposed that 'Jalum Lane' should be submitted as an alternative.

15 Unnamed Lane, Mullumbimby (running between Cedar Street and Myokum Street) – Proposed Gumnut Lane:

20 The request to name the unnamed lane running between Cedar Street and Myokum Street was received from the new owners of a yet to be determined subdivision at 6 Byron Street Mullumbimby, as they wish to be allocated a residential address.

25 An Application for a Subdivision Certificate has yet to be submitted and pending this being received and processed, potentially a 6 week turn around, a residential address for the new subdivision cannot be created.

30 In preparation for the allocation of a new residential address at this property, it would be beneficial to finalise the naming of this lane to ensure a smooth addressing process in the future. However, following community consultation, the concerns raised from the three (3) submissions received have been noted; and it is proposed that further investigation and consultation with adjacent property owners take place regarding the naming of this lane and a separate report is submitted to Council in due course.

Short Street, New Brighton – Proposed Mangrove Street

35 Within the same postcode, 2483, are two streets both named Short Street. One is in Brunswick Heads (21 land parcels) and the other in New Brighton (15 land parcels). Due to the repeated confusion with delivery of mail a resident of Short Street, Brunswick Heads has made a complaint to Australia Post who has then referred the resident to Council.

40 Following community consultation on the proposal to rename Short Street, New Brighton to Mangrove Street, New Brighton, Council received three (3) submissions opposing the proposed road name change; including one with a petition attached with 16 signatures.

45 Due to the opposition received on this proposal and the fact that there are other duplicate road names within the Shire which are not anticipated to be renamed, it is proposed that at this stage there be no change to road name of Short Street, New Brighton.

Eucalyptus Lane, Brunswick Heads

50 The naming of Eucalyptus Lane, Brunswick Heads has been concurred by the LPI and is pending gazettal.

Street Name Register

On the 23 November 2015 Council resolved that:

15-599 Resolved:

1. That Council review its "Street Name Register" and/or place names policy with a view to generating a list of suggested place names that include, for example, reflecting the original residents, custodians and culture of our Shire.
2. That Council consult with local Aboriginal groups regarding the above review.
3. That the review and list be established with the advice of the relevant indigenous and cultural committees of Council.

5 It is proposed that as part of the upcoming review of Council's Street Name Register that the submissions, as summarised in Table 5, be considered.

Table 5: Summary of submissions to be considered for Street Name Register		
Lane/s		Details of alternative names by submission
Brunswick Heads	All	<ul style="list-style-type: none"> • Reflect local aboriginal names, history, language and animals • Historic/ Pioneer families of Brunswick Heads • Early local identities and historical events • Local native plants, birds & marine life • Farrugia Lane, Bate Lane
	Brunswick Heads Lane 3	<ul style="list-style-type: none"> • Oyster Lane, Hudson Lane, Plimsoll Lane & Grandma Lane
	Brunswick Heads Lane 4	<ul style="list-style-type: none"> • Plimsoll Lane & Grandma Lane
	Brunswick Heads Lane 5	<ul style="list-style-type: none"> • Backo Lane, Coral Lane, Melaleuca Lane, Cooper Lane
	Brunswick Heads Lane 7	<ul style="list-style-type: none"> • Percy Hale Sheaffe
	Brunswick Heads Lane 8	<ul style="list-style-type: none"> • Cedar Lane, Endeavour Lane, Farrugia Lane, Jalum Lane & Balun Lane
Byron Bay	All	<ul style="list-style-type: none"> • Stephens Lane, Maris Lane, Meston Lane, Murray Lane & Stephens, Belleair Lane, Porter Lane & Shakespeare Lane
	Proposed - Wallum Place	<ul style="list-style-type: none"> • Late submission received 12 July 2016: Proposed alternate name – Sunset Boulevard
Mullumbimby	Mullumbimby Lane 11	<ul style="list-style-type: none"> • Sigley Lane
	Proposed - Gumnut Lane	<ul style="list-style-type: none"> • Historical significance of the area • Local plant species
Tyagarah	Extension of Foxs Lane	<ul style="list-style-type: none"> • Reflect classic children's' tales

Financial Implications

10 Advertising is required and is expected to be a considerable cost given the amount of detail. Additional costs, assuming all locations are to be signed, will be sign production and installation.

It is considered, however, that the original allocated budget of up to \$5,000 will be adequate for completion of all advertising and signage requirements.

15 Council allocates an annual traffic facilities budget, plus has a local roads budget used for signage and maintenance where required. It is considered both are appropriate for this purpose, noting the

costs will be incurred over time as each item is progressed, which is likely to take between three to six months at best and very much dependent upon consultation.

Statutory and Policy Compliance Implications

5

The Street Name Register is available on the following web link:

<http://www.byron.nsw.gov.au/publications/street-name-register>

10

Council is able to name roads in accordance with the authority provided in Part 10, Division 4, Section 162 of the Roads Act 1993.

The procedure of naming roads, is dictated by Sections 7 to 10 within Part 2, Division 7 of the Roads Regulation 2008, which is available in detail at:

15

<http://www.legislation.nsw.gov.au/maintop/view/inforce/subordleg+156+2008+cd+0+N>

In summary however, the regulation requires compliance with the following process:

20

- Step 1: as recommended, proposed names be advertised and consulted upon*
- Step 2: report back any submissions (with those that receive none proceed to Step 3)
- Step 3: publish in Government Gazette and local newspaper, plus inform authorities*
- Step 4: name is adopted if no objections are received from the listed authorities*

25

*NB: consultation in Step 1 includes to “serve notice” on the “authorities” referred to in Step 3 and 4 and include Australia Post, the Registrar-General, the Surveyor-General, the Chief Executive of the Ambulance Service of NSW, New South Wales Fire Brigades, the NSW Rural Fire Service, the NSW Police Force, the State Emergency Service, the New South Wales Volunteer Rescue Association Incorporated and, in the case of a classified road, the RMS.

30

Additional consideration is the Australian-New Zealand Standard 4819:2011, in particular Section 4 ‘Road Definition and Naming’ and is noted within this report where relevant.

Report No. 13.21 **Proposed Part Closure of Public Road adjoining Lot 4 in DP 608723, Lots 5-7 in DP 629234, Lot 52 in DP 867837 & Lot 6 in DP 599812 along Federal Drive Goonengerry**

Directorate: Infrastructure Services
Report Author: Deanna Savage, Administration Officer Infrastructure Services
File No: I2016/876
Theme: Community Infrastructure
Local Roads and Drainage

Summary:

To endorse the proposed part road closure of public road adjoining Lot 4 in DP 608723, Lots 5-7 in DP 629234, Lot 52 in DP 867837 & Lot 6 in DP 599812 along Federal Drive Goonengerry.

No submissions of objection have been received for this proposal by the general public.

RECOMMENDATION:

1. That Council endorse the application for the proposed part road closure of public road adjoining Lot 4 in DP 608723, Lots 5-7 in DP 629234, Lot 52 in DP 867837 & Lot 6 in DP 599812 along Federal Drive Goonengerry as per Figure 2 in this report, and subsequent land swap with adjoining land owners.
2. That upon closure of the road Council intends to give these portions of the closed road as compensation to the adjoining land owners for the purposes of road widening.

Attachments:

- 1 24.2014.62.1 Federal Drive 13 04 2016 FINAL PLANS & DESIGN REPORT FOR CONSTRUCTION, E2016/24678
- 2 24.2014.62.1 Road Design Report Road Upgrade Project - Federal Drive in Goonengerry, E2016/33197
- 3 Advertising for part road closure of Council public road adjoining LOT 5 DP 629234, Lot 52 DP 867837, Lot 6 DP 629234, Lot 6 DP 599812, Lot 4 DP 608723 & Lot 7 DP 629 234 along Federal Drive Goonengerry for subdivision, E2016/51552

Report

In 2012 Byron Shire Council engaged the services of Greg Alderson and Associates to prepare engineering construction plans and specifications for the proposed upgrade project of Federal Drive at Goonengerry. The area of Federal Drive in question is highlighted in yellow in Figure 1 below. Part of the brief was to review the existing upgrade scope to minimise works and land acquisition.

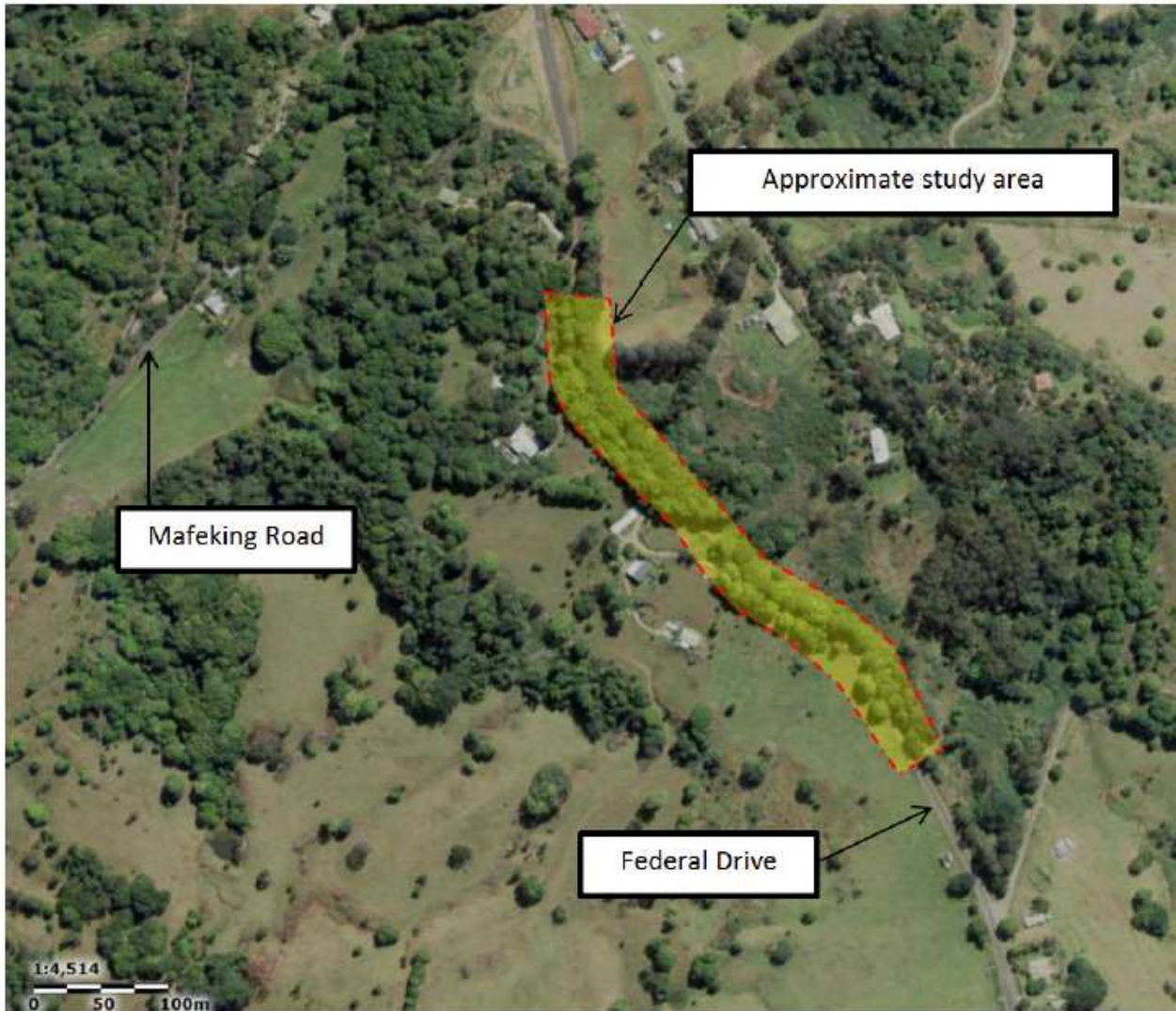


Figure 1

10

The section specified in Figure 1, suffers from damage due to land subsidence, a lack of suitable road surface and subsurface drainage. As a result of this, the pavement is in poor condition and needs to be renewed.

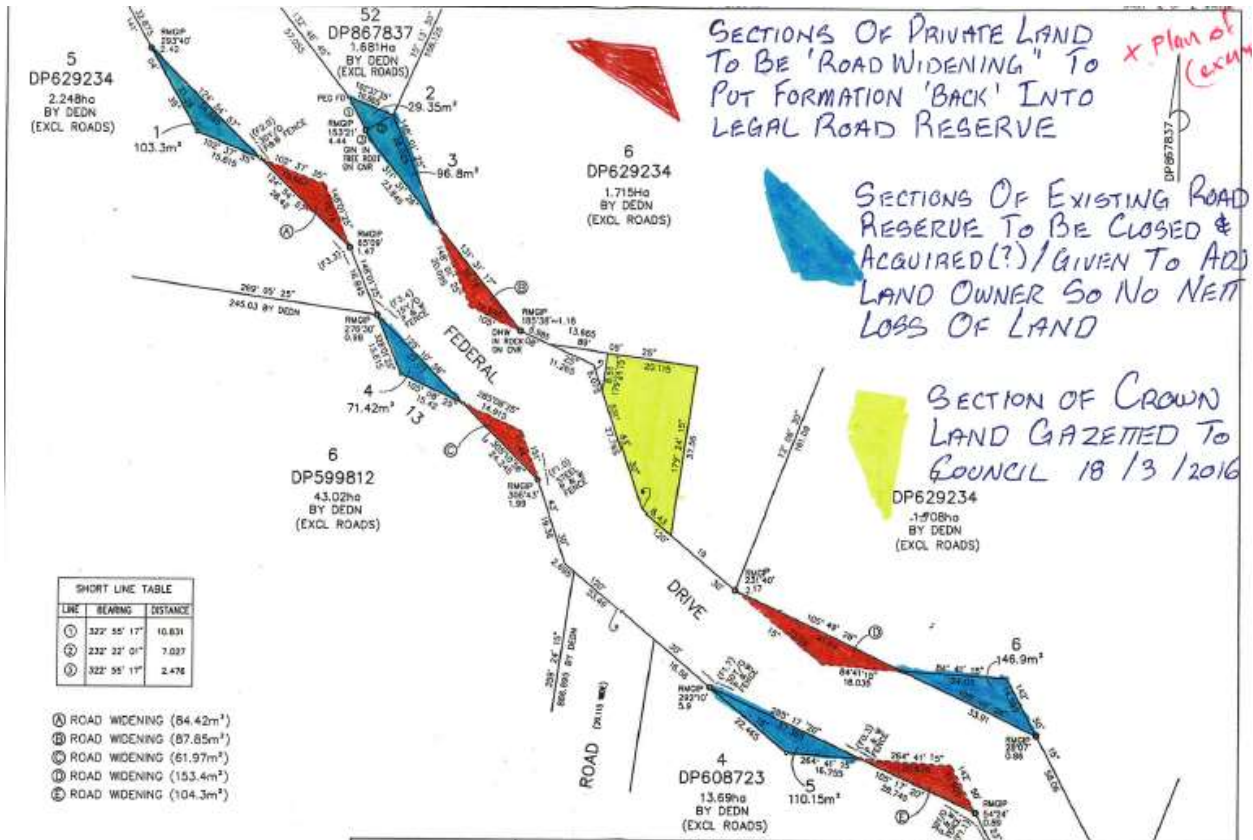
15

E2016/33197 shows the Road Design Report which details the history of the project requirements prior to the design revision.

20

E2016/24678 shows the final plans and design report for construction of the road upgrade.

It was determined that certain sections of the road (as per Figure 2 below) needed to be acquired from private land owners, indicated in red, and certain sections needed to be closed, as per proper road closing procedure, indicated in blue. Council also acquired a section of Crown Land, indicated in yellow, by way of Gazettal.



5 **Figure 2**

This report deals with the sections of existing road reserve, indicated in blue above, which were advertised for closure on the 7th July, E2016/51552.

10 No public submissions were made to Council. The only submission put forward was from Preferred Energy Electrical Consultants on behalf of Essential Energy, which are associated with the planned upgrade of the road in question. No submissions of objection were received.

15 It is recommended that Council endorse the proposed part road closure of public road adjoining Lot 4 in DP 608723, Lots 5-7 in DP 629234, Lot 52 in DP 867837 & Lot 6 in DP 599812 along Federal Drive Goonengerry and subsequent land swap with adjoining land owners.

Financial Implications

20 There will be no financial implications with the road closure application. Once the sections of road are closed and transferred to Council they will be given to adjoining land owners as a direct swap for land acquired by the land owner. There will be no net loss of land to the adjoining property owners in this process.

25 All costs associated with the road closure will be borne by the Council, which has provided a budget for this project in 2016/17.

Statutory and Policy Compliance Implications

30 Relevant sections of the Roads Act are:

ROADS ACT 1993 - SECT 34
Applications for closing of public road

34 Applications for closing of public road

- 5 (1) An application for the closing of a public road (other than a freeway) may be made:
- (a) in the case of a Crown road, by any person, and
 - (b) in the case of any other public road, by the roads authority for the road or by any other public authority.

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ROADS ACT 1993 - SECT 35
Publication of proposal to close public road

35 Publication of proposal to close public road

- 15 (1) The Minister (or, in the case of the proposed closing of a freeway, RMS) must cause notice of the proposed closing of a public road to be published in a local newspaper.
- (2) The notice:
- (a) must identify the road that is proposed to be closed, and
 - (b) must state that any person is entitled to make submissions to the Minister (or, in the case of the proposed closing of a freeway, to RMS) with respect to the closing of the road, and
 - (c) must indicate the manner in which, and the period (being at least 28 days) within which, any such submission should be made.

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ROADS ACT 1993 - SECT 44
Land of former public road may be given in compensation

44 Land of former public road may be given in compensation

- 30 Land forming part of a former public road may be given, by or with the consent of the person in whom it is vested, in compensation for other land acquired for the purposes of this Act.

REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES

Report No. 14.1 **Report of the Local Traffic Committee Meeting held on 27 July 2016**
Directorate: Infrastructure Services
5 **Report Author:** Shannon Manning, Traffic and Transport Administration Assistant
File No: I2016/798
Theme: Community Infrastructure
 Roads and Maritime Services

10 **Summary:**

This report contains the recommendations of the Local Traffic Committee meeting as held on the 27 July 2016.

RECOMMENDATION:

- 15
1. That Council note the minutes of the Local Traffic Committee Meeting held on 27 July 2016.
 2. That Council adopt the following Committee Recommendation(s):

Report No. 6.1 **Traffic - Myocum Downs Rd, Lagoon Drive, Mountain Blue Close -
Speed Review - 60km/hr**
File No: I2016/752

Recommendation 6.1.1

That the committee approves RMS recommendation to reduce the posted speed limit to 60km/hr for the following roads:

- a) Myocum Downs Road, Myocum;
 - b) Lagoon Drive, Myocum; and
 - c) Mountain Blue Close, Myocum.
3. That Council adopt the following Committee Recommendation(s):
Report No. 6.2 **Event - Burringbar St, Mullum - Mullumbimby's Biggest Little Banquet,
3 September 2016 for 5 years**
File No: I2016/717

Recommendation 6.2.1

1. That the Biggest Little Banquet to be held on the first Saturday of September over five years from 2016 to 2020 which includes the temporary road closures below, be endorsed between these times:
 - a) Burringbar Street between 15:00 on first Saturday of September to 02:00 on the following Sunday.
 - b) Annually from the 03 September 2016 to Sunday 06 September 2020.
2. That the approval provided in Part 1 is subject to:

- a) separate approvals by NSW Police and RMS being obtained;
- b) Implementation of the approved Traffic Management Plan and Traffic Control Plan
- c) The event organiser:
 - i) advertising the impact of the event via a notice in the local weekly paper a minimum of one week prior to the operational impacts taking effect, noting it must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints
 - ii) providing copy of the advert for Council's web page
 - iii) informing community and business that are directly impacted (eg adjacent to the event) via written information which is delivered to the property in a timely manner so as to document, consider and respond to any concerns raised
 - iv) arranging for private property access and egress affected by the event
 - v) liaising with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event
 - vi) consulting with emergency services and any identified issues be addressed
 - vii) holding \$20m public liability insurance cover which is valid for the event
 - viii) paying of Council's Road Event Application Fee prior to the event

4. That Council adopt the following Committee Recommendation(s)

Report No. 6.3 Traffic - Lee Ln, Byron - Regulatory Signs - No Stopping Signs
File No: I2016/764

Recommendation 6.3.1

That the 'No Stopping' and 'Parallel Parking' signs installed on Lee Lane, Byron Bay be approved.

5. That Council adopt the following Committee Recommendation(s):

Report No. 6.4 24.2015.19.1 - Marine Parade, Byron Bay - Regulatory Signage - Extension of Pay Parking Scheme

File No: I2016/770

Recommendation 6.4.1

- 1. That a meter registration pay parking scheme be implemented upon Marine Parade, Wategos between the intersections of Palm Valley Drive and Julian Place on the proviso it is the same as the Byron Bay scheme, for example the same**

hourly rates, regulations, restrictions, exemption benefits, etc.

2. That the following time limits and ratios be implemented upon the full length of Marine Parade, Wategos and that they apply Monday-Sunday inclusive including public holidays between the hours of 9am-6pm and that outside of such hours the existing sign-posted regulations remain:
 - a) a 2-hour (2P) limit apply to approximately 40% of parking supply, and that it first be allocated along the beachfront between the turning circle and Julian Place and the balance (if any) apply immediately south of the turning circle on the west-side of the street only;
 - b) a 4-hour (4P) limit apply to approximately 58% of parking supply, and that it first be allocated from Palm Valley Drive to the turning circle, and the balance (if any) apply the east end of Marine Parade, from Julian Place; and
 - c) the remaining 2% of parking supply provide dedicated motorcycle-parking and mobility permit parking, preferably next to beach and commercial property access.
3. That the Byron Bay Resident and Resident Visitors Permit Parking Scheme be implemented in Wategos as follows and it include a 2P time limit effective 9am-6pm each day within:
 - a) Julian Place;
 - b) Brownell Drive, between Julian Place to 27 Brownell Drive; and
 - c) Pandanus Place.

6. That Council adopt the following Committee Recommendation(s):

Report No. 7.1 Event - Stuart St Mullumbimby - Brunswick Valley Historical Society - Mullum Markets - 3rd & 5th Saturday each month

File No: I2016/755

Recommendation 7.1.1

1. That the Brunswick Valley Historical Society Mullum Market be endorsed to be held on the third and fifth Saturdays for five years, including the temporary road closures between Stuart Street from Myokum Street and the Mullumbimby Community Gardens between 07:00 to 15:00 from September 2016 to September 2020.
2. That the approval provided in Part 1 is subject to:
 - a) separate approvals by NSW Police and RMS being obtained;
 - b) Implementation of the approved Traffic Control Plan
 - c) The event organiser:
 - i) providing copy of the advert for Council's web page
 - ii) informing community and business that are directly impacted (eg adjacent to the event) via written information which is delivered to the

property in a timely manner so as to document, consider and respond to any concerns raised

- iii) arranging for private property access and egress affected by the event
- iv) liaising with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event
- v) consulting with emergency services and any identified issues be addressed
- vi) holding \$20m public liability insurance cover which is valid for the event
- vii) paying of Council's Road Event Application Fee prior to the event

7. That Council adopt the following Committee Recommendation(s):

Report No. 7.2 Byron Bay Bypass - DA 10.2016.77.1 - 70% Drawings for Signage and Linemarking

File No: I2016/743

RECOMMENDATION:

That the Committee comments regarding the Design drawings be provided to the designer.

5 Attachments:

- 1 Minutes 27/07/2016 Local Traffic Committee, I2016/788

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Report

5 The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 27 July 2016 for determination by Council. The agenda for this meeting can be located on Council's website at:

<http://www.byron.nsw.gov.au/meetings>

10 The committee recommendations are supported by management and are provided in the attachment to this report.

Financial Implications

15 As per the Reports listed within the Local Traffic Committee Meeting of 27 July 2016.

Statutory and Policy Compliance Implications

As per the Reports listed within the Local Traffic Committee Meeting of 27 July 2016.