



# Byron Shire Council



## Agenda

### Ordinary Meeting

Thursday, 4 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

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## 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)

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## 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**

#### **1. PUBLIC ACCESS**

#### **2. APOLOGIES**

#### **3. REQUESTS FOR LEAVE OF ABSENCE**

#### **4. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY**

#### **5. TABLING OF PECUNIARY INTEREST RETURNS (S450A LOCAL GOVERNMENT ACT 1993)**

#### **6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**

- 6.1 Byron Shire Reserve Trust Committee held on 9 June 2016
- 6.2 Ordinary Meeting held on 9 June 2016
- 6.3 Extraordinary Meeting held on 29 June 2016
- 6.4 Extraordinary Meeting held on 14 July 2016

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# BYRON SHIRE COUNCIL

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Nil

# BYRON SHIRE COUNCIL

## ORDINARY MEETING

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***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 Mayor's Discretionary Allowance  
File No: I2016/616

I move:

1. That Council note the following donation from the Mayor's Discretionary Allowance 2015/16:

Byron Zero Emissions – Zero Emissions Baseline Research - \$950

2. That Council advertise the donation in accordance with Section 356 of the Local Government Act 1993.

Councillor's Background Notes:

Byron Zero Emissions – Zero Emissions Baseline Research - \$950

Donation to Zero Emissions Byron to be used to complete the Zero Emissions Byron baseline research.

Recommended priority relative to other Delivery Plan tasks:

Minimal Impact.

Definition of the project/task:

That Council note and advertise the donation from Mayor's Discretionary Allowance for 2015/16.

Source of Funds (if applicable):

Mayor's Discretionary Allowance (2153.13)

**Signed: Cr Simon Richardson**

**Management Comments by Mark Arnold, Director Corporate and Community Services:**

Clarification of project/task:

Advertise the making of donation from the Mayor's Discretionary Allowance being:

- Byron Zero Emissions – Zero Emissions Baseline Research - \$950

Director responsible for task implementation:

Director Corporate and Community Services

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

This will have minimal impact on other projects/tasks.

Financial and Resource Implications:

5 The 2015/16 Budget adopted by Council included an allocation of \$1,950.00 for budget item Mayor – Discretionary Allowance. Funds of \$1,000 have previously been paid from this budget item, leaving an amount of \$950, for the making of the nominated donation. Following this payment the remaining balance in the unallocated amount of the Mayor’s Discretionary Allowance will be nil.

Legal and Policy Implications:

10 In relation to the making of Section 356 Donations from the Mayor – Discretionary Allowance, Council at its Ordinary meeting held on 14 May 2009 resolved as follows: -

15 ***“09-349 Resolved** that Council confirm that all s356 donations, to be made from the budget allocation “Mayor – Discretionary Allowance”, must be the subject of a resolution of the Council at Ordinary or Extraordinary meeting.”*

This Notice of Motion is to confirm the making of the listed Section 356 Donation.

20 The Section 356 Donation will be advertised and public notice of financial assistance provided in accordance with Section 356 of the Local Government Act 1993.

Notice of Rescission Motion No. 9.2 (16-334) 10.2016.189.1, 116 Stuart Street  
File No: Mullumbimby  
I2016/718

5

We move that Council rescind Resolution No. 16-334 from its Extraordinary meeting held on 29 June 2016 which reads as follows:

*16-334 Resolved that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2016.189.1 for multi dwelling housing (10 single bedroom Dwellings) and demolition of existing structures, be granted consent subject to the recommended conditions listed in Attachment 2 #E2016/42093. (Ibrahim/Spooner)*

If successful we intend to move:

- 10 1. That Council defer development application 10.2016.189.1 for multi dwelling units (10 single bedroom units) and demolition of existing structures to allow for further consultation with the applicant to seek an amended design that is more compatible with the character of the local area, including heritage conservation zone, particularly regarding bulk, scale and form.
- 15 2. That a report be presented back to the next available Council meeting on this consultation and any amendments proposed to the design.

**Attachments:**

- 20 1 Amended Plans - 10.2016.189.1, E2016/63192  
2 Heritage Referral Assessment regarding amended plans - 10.2016.189.1, E2016/63191

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

**Comments from Director Sustainable Environment and Economy:**

30 Since the notice of lodgement of the rescission motion with Council, the applicants have entered into discussions with staff and some councillors about amendments to the design and site layout of the proposal to address issues raised in the debate on this DA at the Council meeting 29 June 2016.

35 The applicant submitted amended plans, Attachment 1 to Council on 5 July 2016.

The applicant has advised as follows:

*“The plans respond to concerns raised at the Council meeting of the 29<sup>th</sup> of June.*

40 *Our understanding is that whilst the application is fully compliant with the relevant legislation and hence recommended for approval by council staff, certain councillors had concerns in respect to the number of car spaces and acoustic privacy to the adjoining neighbours.*



***As such, and as a gesture of good faith, we hereby offer to modify the application on the basis that council staff agree with such changes, and the application is once again recommended for approval with determination to occur at the August 4th council meeting.”***

**5 Amended plans**

The amendments to the plans as previously considered by Council at the meeting held 29 June 2016 include:

- 10       • The addition of a carport providing an additional parking space adjacent to Unit 1 (a driveway to Stuart Street is now proposed to be retained in order to provide access to the proposed additional parking space);
- An additional two (2) motorcycle parking spaces have been proposed at the rear of the site adjacent to the southern boundary;
- 15       • The bicycle parking area has been relocated to between the proposed two buildings;
- A proposal for a “share car” to be made a condition of consent (a single car to be parked on site which is available for the common use by residents of the site), and
- A proposal for an acoustically rated boundary fence to be made a condition of consent.

**20 Character of the local area (additional comments)**

Concerns have also been raised regarding the compatibility of the proposed development with the ‘character’ of the local area and Clause 16A of the Affordable Rental Housing SEPP. Detailed consideration has been given to the proposal and its compatibility with the character of the local area, the following additional matters are noted.

The subject site is located within an urban block bordered by Stuart Street (west), Burringbar Street (north), Station Street (east) and Fern Street (south). The northern portion of this block contains larger commercial buildings forming part of the Mullumbimby commercial centre. The central and southern portions of the block contain residential development predominantly detached houses.

Having regard specifically to the Stuart Street streetscape, the proposed upper level rooms are located predominantly within the pitched roof design and should not appear from the street as second storey.

Having regard to development footprint, the proposed development comprises two separate buildings each of a size comparable to existing single dwellings in this block (and in the older established residential areas of Mullumbimby). It is noted that the properties at 126A Stuart Street and 101A Station Street both contain dwellings at the rear which front McGoughans Lane (See **Figure 1**). These dwellings each have a building footprint equal to, or greater than, the size of the proposed development.

Having regard to the planning principle in *Project Venture Developments v Pittwater Council* [2005] NSW Land and Environment Court it is also noted that to be compatible does not mean a the development has to be the same.

On balance, following consideration of the acceptable nature of the physical impacts of the development on surrounding development, and the appearance, bulk and scale of the development being in harmony with buildings in the immediate area, it is considered the proposed

development is compatible with the character of the local area. Consent is able to be granted for the proposed development having regard to Clause 16A of the Affordable Rental Housing SEPP.



5 **Figure 1 – Location of subject site in relation to the properties at 126 Stuart Street and 101 Station Street**

### **Heritage Assessment**

10 The comments received from Council's Heritage Advisor in relation to latest set of amended plans are also attached to the report for Council consideration, Attachment 2.

**Notice of Motion No. 9.3     Councillor Membership Post-Election of Committees**  
**File No:                             I2016/679**

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**I move that Council offer Councillors serving on Advisory Committees, Section 355 Committees and Project Reference Groups short-term “community membership” of those committees and PRGs, up to the post-election disbandment of each Committee or PRG.**

5

**Councillor’s Background Notes:**

10 Council’s Advisory Committees and Project Reference Groups will ‘survive’ the election on 10 September 2016 to the extent of still meeting and dealing 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 are then advertised. New community members are likely to be appointed in about November 2016.

15 For current Councillors retiring from office, this creates a gap in the opportunity to contribute to the advisory process - they lose their 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.

20 This motion offers Councillors like myself, who wish to continue their contribution through the transition period, an avenue to do so.

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

- 25                     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  
 30                     6. Mullumbimby Masterplan Scoping Project Reference Group  
                          7. North Byron Coastal Creeks Flood Risk Management Committee  
                          8. Transport Advisory Committee  
                          9. Water, Waste and Sewer Advisory Committee

35     Recommended priority relative to other Delivery Plan tasks:

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.

40     Definition of the project/task:

45 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 other community members of the Committee or PRG.

Source of Funds (if applicable):

No funding is required.

50

**Signed: Cr Duncan Dey**

### Management Comments by Mark Arnold, Director Corporate and Community Services:

#### Clarification of project/task:

- 5 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 Committees established by the new Council. The Community Representatives will be appointed by the new Council.

- 15 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.

- 20 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.

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

- 30 *"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."*

- 35 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.

- 40 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:

- 45 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.

- 50 Financial and Resource Implications:

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:

5

This would create a precedent for future Councils.



PETITIONS

**Petition No. 10.1 Speed Bump Needed in Blackwood Crescent, Bangalow**

**Directorate:** Infrastructure Services

**Report Author:** Dominic Cavanough , Contract Engineer

**File No:** I2016/623

**Theme:** Community Infrastructure  
Asset Management

At Council's Ordinary meeting held on 9 June 2016 the Mayor tabled a petition containing 26 signatures which states:

*"Partition for speed bump in Blackwood Crescent"*

**Comments from Director Infrastructure Services:**

Installation of traffic calming devices such as Flat Top Road Humps (road hump) in a local traffic management area will require a joint site investigation by RMS, Police and Council Officers. The findings of the joint investigation are to determine the best solutions is to be reported to the Local Traffic Committee.

*Figure 1. Blackwood Crescent, Bangalow highlighted in orange.*



**Potential Road Hump Benefits**

- Minor Speed reductions using gentle road humps
- Speed humps will visually impress motorists that the street is meant to be low speed.
- Potential to reduce incidents
- May reduce some resident complaints

**Potential Road Hump Disadvantages**

- Residents are likely to have increased noise levels
- Causes traffic to use other streets to avoid the road humps and moves the problem
- Heavy vehicles and emergency services have to travel very slowly to negotiate these obstacles
- Vehicles have the potential to run off the road onto the shoulder to avoid the road hump
- Potential vehicle damage and/or personal injury if approached at speed
- Emergency vehicles will take longer response times
- Vehicles slow down then accelerate which creates increased air pollution
- Vehicles headlights are likely to be raised to eye level creating a dazzling effect and may disturb residents.
- Increased capital costs to install
- Regular maintenance required.

**Summary**

In summary, road humps are not a preferred traffic calming device as they have a tendency to cause issues for local residents with increased noise levels, uncomfortable ride and slower emergency response times. Installing speed humps is an additional capital cost for council that requires regular maintenance and inspections.

**RECOMMENDATION:**

1. That the petition regarding speed bump needed in Blackwood Crescent, Bangalow be noted.
2. That the petition be referred to the Director Infrastructure Services to be investigated with findings to be reported to the Local Traffic Committee.
3. That any options endorsed by the Local Traffic Committee be subject to Council considering funding implications.

**Attachments:**

- 1 Excerpt of E2016/41591 Petition requesting Speed Bump Needed in Blackwood Crescent, Bangalow, E2016/41594

**STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES****Report No. 13.1 Local Government NSW Annual Conference 2016****Directorate:** Corporate and Community Services**Report Author:** David Royston-Jennings, Corporate Governance and Strategic Planning Officer**File No:** I2016/710**Theme:** Corporate Management  
Councillor Services**Summary:**

In accordance with Council's Policy 14/010 Mayor and Councillors Payment of Expenses and Provision of Facilities, clause 8.4.1: *"A resolution of Council is required to authorise attendance of Councillors at Local Government and Shires Association Conference(s) as a voting delegate."*

The Local Government Association of NSW Annual Conference 2016 will be held from 16 to 18 October 2016 at WIN Entertainment Centre, Wollongong, NSW.

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**RECOMMENDATION:**

1. That Council authorise three Councillors to attend the Local Government Association of NSW Annual Conference 2016 to be held at the WIN Entertainment Centre, Wollongong, NSW from 16 to 18 October 2016.
2. That Council determine the three Councillors to attend the Local Government Association of NSW Annual Conference 2016 at its Ordinary Meeting on 29 September 2016.



## Report

The Local Government Association of NSW Annual Conference 2016 will be held at the WIN Entertainment Centre, Wollongong, NSW, from 16 - 18 October 2016.

In accordance with Council's Policy 14/010 Mayor and Councillors Payment of Expenses and Provision of Facilities, clause 8.4.1(a) states: "A resolution of Council is required to authorise attendance of Councillors at (a) Local Government and Shires Association Conference(s) as a voting delegate."

Council is entitled to three voting delegates in the debating session. This number is determined by population.

Policy 14/010 also states at clause 8.4.4. that: "Submission of motions for consideration by Council will be done by notice of motion, which can be considered during the year" as motions must first be endorsed by Council prior to submission to the Local Government Association **a notice of motion would be required by 22 August 2016** however an extension may be granted to 25 August to allow for Byron Shire Council's next Ordinary Meeting. Information regarding the structure of motions is attached over the page.

Additional information and updates can be found on the Local Government Associations website at the address below.

<http://www.lgsa.org.au/events-training/local-government-nsw-annual-conference>

The purpose of this Report is to enable Council to authorise the attendance of three (3) Councillor delegates to the Local Government Association of NSW Annual Conference 2016, to be held at the WIN Entertainment Centre, Wollongong, NSW from 16 to 18 October 2016. This will allow the number of delegates attending to be submitted as part of the registration process.

The new Council at its Ordinary meeting on 29 September 2016 will determine the three (3) Councillors and the names of those Councillors will be forwarded to LGNSW to complete the registration process.

## Financial Implications

Council has an allocation for Conferences (2145.004) of \$19,300 within the 2016/17 budget. There has been no expenditure so far from this budget item and therefore Council is able to fund the cost of three delegates from this budget.

Where: WIN Entertainment Centre, Wollongong, NSW

Dates: Sunday 16 October - Tuesday 18 October 2016

Costs <b>per person:</b>	Registration Fee ( <i>early bird due 31 August</i> )	\$900.00
	Flights ( <i>approx</i> )	\$300.00
	Conference Functions ( <i>approx</i> )	\$300.00
	Accommodation ( <i>approx</i> )	<u>\$800.00</u>

<b>Total</b>	<b>\$2,300.00</b>
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**Statutory and Policy Compliance Implications**

In accordance with Council's Policy 14/10 Mayor and Councillors Payment of Expenses and Provision of Facilities "A resolution of Council is required to authorise attendance of Councillors at Local Government and Shires Association Conference(s) as a voting delegate."

5

*Excerpt from the Conference website:*

## Criteria for Motions

The LGNSW Board is seeking ways to ensure the motions debate centres on advancing the sector wide policy agenda. This means proposed motions should seek to be strategic, affect members state-wide and introduce new or emerging policy issues and actions. When drafting motions, please consider the resolutions and outcomes of last year's conference by viewing the [2015 Action Report \(PDF, 726KB\)](#).

Furthermore, LGNSW has recently drafted a revised policy framework consisting of proposed Policy Principles and Position Statements which is outlined in the [Policy Review Discussion Paper \(PDF, 301KB\)](#). Members are encouraged to consider the draft policy framework when drafting motions for this year's conference.

The Board has resolved that motions will be included in the Business Paper for the Conference only where they:

1. are consistent with the objects of the Association (see Rule 4 of the [Association's rules](#));
2. relate to Local Government in NSW and/or across Australia;
3. concern or are likely to concern Local Government as a sector;
4. seek to advance the Local Government policy agenda of the Association and/or improve governance of the Association;
5. have a lawful purpose (a motion does not have a lawful purpose if its implementation would require or encourage non-compliance with prevailing laws);
6. are clearly worded and unambiguous in nature; and
7. do not express preference for one or several members over one or several other members.

Please note the Board will not include motions in the Business Paper which do not advance the local government policy agenda. Therefore a motion will not be included if it is operational, rather than strategic; not local government business; focused on a local issue only or if the motion is consistent with past policies and actions of LGNSW or the Local Government and Shire's Association.

Further, for a motion to be included in the Conference Business Paper the submitting member needs to provide accompanying evidence of its support for the motion. Such evidence may include an extract of the minutes of the meeting at which the member resolved to submit the motion for consideration by the Conference.

## How to write a motion - examples

The format of motions, as much as possible, should call on a specific body (e.g. LGNSW, state government, federal government, a specific Department or Minister) and have a specific outcome that the motion is aiming to achieve. The wording of the motion should be unambiguous. Some examples of motions submitted by the LGNSW Board to conference in 2015 are:

### **26 The Board – Minister for Rural and Regional NSW**

That LGNSW lobbies the NSW State Government to appoint a Minister for Rural and Regional NSW with suitable resources to undertake meaningful representative activities.

### **57 Board – Natural Disaster Funding, Day Labour**

That LGNSW requests the Australian and NSW governments reinstate the claimable expense for the use of council staff during their normal working hours to attend to natural disaster relief and recovery funded works and reverse the present policy that effectively requires the mandatory use of contractors for recovery works.

### **89 Board – Companion Animal Act matters**

That LGNSW advocates that the NSW Government takes the following steps to improve the management of companion animals:

- establish an integrated on-line statewide registration process as an improved service to companion animal owners;
- resolve difficulties with the *Companion Animals Act 1998* definition of an "Authorised Officer", by using the definition contained in the *Impounding Act 1993* as the definition in both Acts, allowing councils choice in the business model for its area; and
- review the dismissal of charges under section 10 of the *Crimes (Sentencing Procedure) Act 1999* in relation to offences under the *Companion Animals Act 1998*.

**Report No. 13.2**      **Council Investments June 2016**  
**Directorate:**      Corporate and Community Services  
**Report Author:**      James Brickley, Manager Finance  
**File No:**      I2016/714  
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 June 2016 for Council's information.

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

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**RECOMMENDATION:**

**That the report listing Council's investments and overall cash position as at 30 June 2016 be noted.**

**Report**

In relation to the investment portfolio for June 2016, Council has continued to maintain a diversified portfolio of investments. At 30 June 2016, the average 90 day bank bill rate (BBSW) for the month was 1.99%. Council's performance to 30 June is approximately 2.93%. 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

The table below identifies the investments held by Council as at 30 June 2016:

**Schedule of Investments held as at 30 June 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
04/04/16	1,000,000	AUSWIDE BANK LTD	P	BBB	04/07/16	TD	3.01%	1,000,000.00
08/02/16	2,000,000	NAB	P	AA-	08/07/16	TD	3.02%	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
07/04/16	2,000,000	BANKWEST	P	A1+	06/07/16	TD	3.00%	2,000,000.00
02/05/16	1,000,000	BANKWEST	N	A1+	04/07/16	TD	2.70%	1,000,000.00
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
04/04/16	2,000,000	AUSWIDE BANK LTD	N	BBB	04/07/16	TD	3.01%	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
14/04/16	1,000,000	NAB	N	AA-	14/07/16	TD	3.09%	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
14/03/16	3,000,000	BANKWEST	N	A1+	12/07/16	TD	3.00%	3,000,000.00
06/06/16	2,000,000	NAB	N	AA-	05/09/16	TD	2.93%	2,000,000.00
02/02/16	3,000,000	ME BANK	P	BBB	04/07/16	TD	2.95%	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
06/04/16	2,000,000	NAB	N	AA-	04/07/16	TD	3.07%	2,000,000.00
07/04/16	2,000,000	BANK OF QUEENSLAND	N	A2	07/07/16	TD	3.00%	2,000,000.00
26/04/16	2,000,000	ME BANK	N	BBB	26/07/16	TD	3.06%	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

# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.2

Purch Date	Principal (\$)	Description	CP*	Rating	Maturity Date	Type	Interest Rate Per Annum	Current Value
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
17/05/16	2,000,000	BANKWEST	N	A1+	04/07/16	TD	2.60%	2,000,000.00
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
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	P	A2	31/08/16	TD	2.90%	2,000,000.00
N/A	2,222,613	CBA BUSINESS ONLINE SAVER	N	A	N/A	CALL	1.80%	2,222,613.42
<b>Total</b>	<b>76,722,613</b>					<b>AVG</b>	<b>2.93%</b>	<b>76,742,693.42</b>

**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.

### New Investment Opportunity taken in respect of Resolution 15-515

On 3 June 2016, Council purchased a five year Floating Rate Note investment for \$1,000,000 issued by the Westpac Bank. This type of investment is allowable under the Ministerial Investment Order and is in line with Council's resolution **15-515** in regard to Environmental and Socially Responsible Investments. The investment return varies but is calculated on movements in the three month bank bill swap rate plus a fixed margin of 1.17%. The current return is 3.16% per annum. Proceeds from the funds (Westpac are hoping to raise just over \$1billion) from investors will then be issued to entities as loans by Westpac only for renewable energy projects ie wind farms and low carbon commercial buildings in Australia. The investment is called the Westpac Climate Bond and it has been certified by the Climate Bonds Initiative.

For the month of June 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 decreased since May 2016, but overall is still demonstrating a cumulative unrealised gain of \$20,080.

**5 Dissection of Council Investment Portfolio as at 30 June 2016**

<b>Principal Value (\$)</b>	<b>Investment Linked to:-</b>	<b>Current Market Value (\$)</b>	<b>Cumulative Unrealised Gain/(Loss) (\$)</b>
73,000,000.00	Term Deposits	73,000,000.00	0.00
1,000,000.00	Floating Rate Note	1,000,080.00	80.00
2,222,613.42	Business On-Line Saver (At Call)	2,222,613.42	0.00
500,000.00	Bonds	520,000.00	20,000.00
<b>76,722,613.42</b>		<b>76,742,693.42</b>	<b>20,080.00</b>

10 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.

15 The table below provides a reconciliation of investment purchases and maturities for the period 25 May 2016 to 30 June 2016 on a current market value basis.

**Movement in Investment Portfolio – 25 May 2016 to 30 June 2016**

<b>Item</b>	<b>Current Market Value (at end of month) \$</b>
<b>Closing Balance at 24 May 2016</b>	<b>80,743,045.21</b>
Add: New Investments Purchased	20,000,000.00
Add: Call Account Additions	0.00
Add: Interest from Call Account	3,968.21
Less: Investments Matured	24,000,000.00
Less: Call Account Redemption	0.00
Less: Fair Value Movement for period	(4,320.00)
<b>Closing Balance at 30 June 2016</b>	<b>76,742,693.42</b>

**Investments Maturities and Returns – 25 May 2016 to 30 June 2016**

20

<b>Principal Value (\$)</b>	<b>Description</b>	<b>Type</b>	<b>Maturity Date</b>	<b>Number of Days Invested</b>	<b>Interest Rate Per Annum</b>	<b>Interest Paid on Maturity \$</b>
3,000,000.00	NAB	TD	26/05/16	90	3.02%	22,339.73
2,000,000.00	Beyond Bank	TD	01/06/16	92	3.00%	15,123.29
2,000,000.00	Suncorp	TD	01/06/16	90	3.01%	14,843.84
2,000,000.00	NAB	TD	02/06/16	121	3.01%	19,956.72
2,000,000.00	NAB	TD	02/06/16	122	3.02%	20,190.48
2,000,000.00	NAB	TD	06/06/16	94	3.09%	15,915.62



# BYRON SHIRE COUNCIL

## STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.2

Principal Value (\$)	Description	Type	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
2,000,000.00	ME Bank	TD	06/06/16	122	2.95%	19,720.55
1,000,000.00	NAB	TD	06/06/16	91	3.10%	7,728.77
2,000,000.00	NAB	TD	06/06/16	119	3.01%	19,626.85
2,000,000.00	Suncorp	TD	07/06/16	90	3.02%	14,893.15
2,000,000.00	Bank Of Queensland	TD	23/06/16	120	3.00%	19,726.03
2,000,000.00	Suncorp	TD	30/06/16	90	3.00%	14,794.52
<b>24,000,000.00</b>						<b>204,859.55</b>

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 June 2016 the table below identifies the overall cash position of Council as follows:

### Dissection of Council Cash Position as at 30 June 2016

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
<b>Investments Portfolio</b>			
Term Deposits	73,000,000.00	73,000,000.00	0.00
Floating Rate Note	1,000,000.00	1,000,080.00	80.00
Business On-Line Saver (At Call)	2,222,613.42	2,222,613.42	0.00
Bonds	500,000.00	520,000.00	20,000.00
<b>Total Investment Portfolio</b>	<b>76,722,613.42</b>	<b>76,742,693.42</b>	<b>20,080.00</b>
<b>Cash at Bank</b>			
Consolidated Fund	2,822,126.08	2,822,126.08	0.00
<b>Total Cash at Bank</b>	<b>2,822,126.08</b>	<b>2,822,126.08</b>	<b>0.00</b>
<b>Total Cash Position</b>	<b>79,544,739.50</b>	<b>79,564,819.50</b>	<b>20,080.00</b>

## 10 Financial Implications

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

### Statutory and Policy Compliance Implications

15

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.

- 5 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.

- 10 Council's Investment Policy includes the objective of maximising earnings from authorised investments and ensuring the security of Council Funds.

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.

**STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY**

**Report No. 13.3**      **Report of the Planning Review Committee Meeting held on 2 June 2016**

**Directorate:**      Sustainable Environment and Economy

**Report Author:**      Chris Larkin, Major Projects Planner

**File No:**      I2016/613

**Theme:**      Ecology  
Development and Approvals

**Summary:**

This report provides the outcome of the Planning Review Committee Meeting held on 2 June 2016.

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**RECOMMENDATION:**

**That the report be noted.**

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.3

### Report:

The meeting commenced at 1.20pm and concluded at 1.32pm.

- 5 Present: Crs Dey, Richardson, Hunter  
Staff: Shannon Burt (Director Sustainable Environment and Economy, Chris Larkin (Major Projects Planner).  
Apologies: Cr Cameron
- 10 The following development applications were reviewed with the outcome shown in the final column.

DA No.	Applicant	Property Address	Proposal	Exhibition Submissions	Reason/s Outcome
10.2016.235.1	Bureau SRH Architects	32-34 Byron St Bangalow	Alterations and Additions to Existing Commercial Building - including a sub ground level carpark, Restaurant and Three (3) One Bedroom Motel Units	Level 2 5/5/16 to 18/5/16 21submissions	The number of public submissions  The extent of variation to Council policies proposed  The perceived public significance of the application  Council
10.2016.248.1	Ardill Payne & Partners	32 Azalea St Mullumbimby	Subdivision: Three (3) Lots	Level 1 12/5/16 to 25/5/16  10 submissions	Delegated Authority
10.2016.250.1	Ardill Payne & Partners	16 Azalea St Mullumbimby	Subdivision: Five (5) Lots	Level 1 12/5/16 to 25/5/16  5 submissions	Delegated Authority

**Report No. 13.4**      **Byron Coast Koala Plan of Management**  
**Directorate:**      Sustainable Environment and Economy  
**Report Author:**      Greg Shanahan , Natural Environment Policy and Projects Officer  
**File No:**      I2016/690  
5 **Theme:**      Ecology  
                 Planning Policy and Natural Environment

**Summary:**

10 Following public exhibition in early 2014, the draft Byron Coast Koala Plan of Management (KPOM) was reported to Council in October 2014, where Council resolved to receive legal advice on a number of questions about the KPOM and *State Environmental Planning Policy No 44 – Koala Habitat Protection* (SEPP 44). This legal advice was subsequently received and distributed  
15 to Councillors as an attachment at the 27 August 2015 Council meeting.

20 Changes were made to the draft KPOM in response to legal advice, together with updating of the habitat mapping informed by the 2015 updated vegetation mapping of the coastal areas of the Shire. The changes resulted in the draft KPOM submitted to Council on 27 August.

On 27 August 2015 Council resolved to commission a peer review of the draft KPOM and associated habitat mapping, and place the draft KPOM on public exhibition for a further two weeks.

25 The Project Reference Group (PRG), tasked with providing advice and guidance on the preparation of the KPOM to ensure that it meets the aim of SEPP 44, workshopped with Councillors and koala ecologists to create the terms of reference (TOR) to direct the peer review.

Niche Environment and Heritage were commissioned in 2016 to peer review the KPOM based on the TOR.

30 This report recommends that the peer review recommendations guide the amending of the KPOM, and that the resultant plan be adopted by Council and forwarded to the Department of Planning and Environment for their consideration and approval.

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**RECOMMENDATION:****That Council:**

1. **Adopt the Byron Coast Koala Plan of Management, as reported to 27 August 2015 meeting, incorporating any changes made in accordance with recommendations listed in Table 1 of this report.**
2. **Submit the Byron Coast Koala Plan of Management to the Director of the Department of Planning and Environment for approval in accordance with SEPP 44.**
3. **Delegate to the General Manager the authority to make any non-policy amendments or minor changes required to the Byron Coast Koala Plan of Management prior to submitting the Plan to the Department of Planning and Environment, including those that may be required by the Department following submission of the Plan.**
4. **Receive a report detailing any changes required by the Department of Planning and Environment in response to recommendation 3.**

**Attachments:**

- 1 KPOM Submission summary September 2015, E2016/63322
- 2 Byron Coast KPoM Peer Review, E2016/20104
- 5 3 KPOM peer review table of recommendations, E2016/63327
- 4 Form of Special Disclosure of Pecuniary Interest, E2012/2815

## Report

Following the public exhibition of the draft KPOM in early 2014, a revised draft was reported to Council in October 2014 where Council resolved to receive legal advice (14-494).

In response to legal advice and advice from the Department of Planning and Environment (DPE), in June 2015 changes were made to the draft KPOM. This included changing key definitions, issues with habitat mapping, development assessment requirements, Koala Management Precincts and habitat buffers and corridors. Council's Legal Services Branch has reviewed the amended draft KPOM against the legal advice and the original draft KPOM. Legal Services' view is that the amended draft KPOM addresses the issues raised by the legal advice.

The 2015 updating of the vegetation mapping for the Byron coast based on recent aerial photography allowed Council staff to update the Koala habitat mapping contained in the draft KPOM. The amended version of the [draft KPOM](#) was reported to Council at the 27 August 2015 Council meeting, where Council Resolved (15-404):

1. Commission a Peer Review of the Byron Coast CKPOM and associated habitat mapping.
2. The preferred agency is the University of Queensland Koala Ecology Group. In the event that this group is not available to undertake the review, alternative persons may be proposed by staff at the workshop in item 7. below.
3. Staff will prepare the Peer Review terms of reference based on public submissions received and questions raised by Councillors.
4. The draft CKPOM will be placed on Council's website as soon as possible to allow interested parties to make further submissions. Two weeks will be provided for additional submissions to be lodged.
5. Unspent project funding will be used to fund the Peer Review.
6. In the event that there are major barriers to the implementation of this resolution, a staff report will be presented to Councillors in workshop.
7. A workshop will be provided for Councillors in two weeks to oversee the submissions, Peer Review terms of reference and other related issues including legal advice and SEPP 44.

In response to resolution 15-404, Part 4 above, the draft KPOM was placed on the Council website for a period of two weeks, and public submissions were invited. There were a total of 33 submissions received. Of these, 27 supported the adoption of the plan, four provided comments and two objected. See **Attachment 1** for detailed analysis of the 2015 submissions. A copy of all submissions has been provided to Councillors on CD.

In response to resolution 15-404, Parts 1, 2 and 3, Councillors, PRG members and staff at a Strategic Planning Committee Workshop on 24 September 2015 drafted the terms of reference (TOR) to direct the peer review. Four potential consultants were identified and provided with a Request for Quotation.

Niche Environment and Heritage were subsequently engaged to undertake the peer review. The resultant peer review (**Attachment 2**) is formatted to address each of the eleven key points raised by the terms of reference. At the start of each chapter, the particular point from the TOR is quoted, followed by a detailed response from Niche's ecological perspective.

On 14 April 2016, Niche's senior ecologist provided a presentation to Strategic Planning Workshop to outline findings contained within the Peer Review.

On 5 May a PRG meeting was held to discuss the peer review findings.

**Attachment 3** summarises the key recommendations contained within the peer review. Comments supplied by PRG members, including input from community representatives and the Office of Environment & Heritage (OEH) representative were collated and added to the table, together with ecological and Legal Services comments.

The peer review concluded:

*"The CKPOM is considered to be largely consistent with current legislation, literature and other CKPOMs. Implementation of the plan, following consideration of this Peer Review, will provide a comprehensive and thorough framework for development assessment, management of key threats, community engagement, conservation and restoration of Koala habitat."*

Based on the recommendations from the peer review, and in response to the public exhibition submissions, PRG and staff comments, recommendations for minor adjustments to the KPOM have been included in Table 1 of this report.

**Table 1: Recommended changes to the draft Koala Plan of Management**

Ref.	KPOM Part	KPOM page	Recommendation	Source of amendment
1	Section A 1.2	17	Add: <i>In September 2015 an additional two weeks was provided for interested parties to make submissions on the revised KPOM. During this second exhibition period a total of 33 submissions were received. 27 submissions (82%) supported the adoption of the KPOM. Six of these submissions objected to the weakening of the Plan since the 2014 version. Four submissions (12%) provided comments. Two submissions (6%) objected to certain parts of the Plan.</i>	Result of second public exhibition
2	Section B 5.5.2	35	Add: <i>(ii) Council shall amend the Byron Shire Development Control Plan 2014 to include properties under one hectare in size with owners willing to include their land as Potential Koala Habitat</i>	Peer Review TOR 5
3	Section B 5.5.6	37	Add: <i>4. To improve and enhance the potential for koalas to safely cross roads located within koala corridors, install traffic calming measures and/or provide other mitigating measures.</i>	Public exhibition
4	Section C 6.1	41	Add: <i>(ix) New Koala food tree planting provides an important element in habitat restoration due to recognised rapid uptake by Koalas</i>	Peer Review TOR 3
5	Section C 9.2.1	48	Add: <i>(i)e) Council will seek to create a map layer identifying high risk areas where high levels of dog ownership coincide with or are adjacent to Core Koala Habitat.</i>	Peer Review TOR 6(b)



Ref.	KPOM Part	KPOM page	Recommendation	Source of amendment
6	Part 2	67	Section 12.5 first paragraph: Replace the words “ <i>evacuation from</i> ” with “ <i>movement within and out of</i> ”	Peer Review TOR 9
7	Part 2	70	<p>Add:</p> <p><b>13.2.3 BioBanking</b></p> <p><i>The Biodiversity Banking and Offsets Scheme, 'BioBanking', is designed to address the loss of biodiversity values from habitat degradation. The NSW Government has introduced BioBanking to help address the loss of biodiversity values, including threatened species, due to habitat degradation and loss. Koalas are a “species credit” species under BioBanking. Landowners with Koala habitat which is subject to a BioBanking agreement need to ensure the following management actions</i></p> <ul style="list-style-type: none"> <li>• <i>Apply ecological fire management practices</i></li> <li>• <i>Exclude domestic stock grazing</i></li> <li>• <i>Replanting (for use in "Low condition" vegetation)</i></li> <li>• <i>Supplementary planting (for use in "Moderate to good condition" vegetation)</i></li> <li>• <i>Weed control</i></li> </ul> <p><i>Further information is available at <a href="http://www.environment.nsw.gov.au/biobanking/">http://www.environment.nsw.gov.au/biobanking/</a></i></p>	Peer Review TOR 10

The amended Byron Coast KPOM will:

- 5
- Provide certainty for landholders and planners by a providing consistent, transparent development assessment process
  - Reduce the assessment requirements and associated cost for landholders in most circumstances, particularly minor development.
  - Eliminate the requirement and cost associated with developing a site specific KPOM.

10

Currently approved KPOM's include Coffs Harbour (2000), Port Stephens (2002), Kempsey (2011), Lismore (2013) and Tweed (2015) as well as draft KPOM's for Richmond Valley and Bellingen LGA's. Ballina Council has adopted their KPOM and are awaiting approval from the DPE.

## 15 Financial Implications

The KPOM details a number of management actions which require funding either through staff time or budget allocation. Ongoing progression of the KPOM implementation will occur in line with the annual budget process.

20

**Statutory and Policy Compliance Implications**

- 5 Pursuant to the *State Environment Planning Policy No 44 – Koala Habitat Protection*, a plan of management may be prepared for the whole or part of a local government area listed in Schedule 1 of the SEPP (includes Byron Shire). Once adopted by Council the KPOM must be approved by the DPE.

**Report No. 13.5      Report of the Planning Review Committee Meeting held on 23 June 2016**

**Directorate:** Sustainable Environment and Economy

**Report Author:** Chris Larkin, Major Projects Planner

**File No:** I2016/692

**Theme:** Ecology  
Development and Approvals

**Summary:**

This report provides the outcome of the Planning Review Committee Meeting held on 23 June 2016.

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**RECOMMENDATION:**

**That the report be noted.**

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.5

### Report:

The meeting commenced at 1.15pm and concluded at 1.40pm.

- 5 Present: Crs Dey, Hunter, Cameron, Wanchap  
Staff: Chris Larkin (Major Projects Planner).  
Apologies: Nil

The following development applications were reviewed with the outcome shown in the final column.

10

DA No.	Applicant	Property Address	Proposal	Exhibition Submissions	Reason/s Outcome
10.2016.273.1	Ardill Payne & Partners	17 Ballina Road Bangalow	Stage One: Two (2) Lot Subdivision Stage Two: Construction of 20 Two Bedroom Dwelling Houses and Strata Subdivision	Level 2 19/5/16 to 1/6/16 2 submissions	<b>Outside staff Delegations (Cost of works)</b> Council
10.2016.183.1	Mr K Emery	369 Booyong Road Nashau	Relocation of Dwelling House to Create Dual Occupancy (Detached)	Level 1 14/4/16 to 27/4/16 2 submissions	Delegated Authority

Council determined the following development application on the 16 July 2015. The Section 96 application to modify the development consent was referred to the Planning Review Committee whereby it was decided that application can be determined under delegated authority as noted below.

15

DA No.	Applicant	Property Address	Proposal	Exhibition Submissions	Reason/s Outcome
5.1987.208.6	Planners North Pty Ltd	144 Bayshore Drive Byron Bay	S96 to Amend Condition 66A Regarding Flood Planning Level	Level 0	Delegated Authority

**Report No. 13.6**                      **PLANNING - Broken Head Quarry rehabilitation works**  
**Directorate:**                      Sustainable Environment and Economy  
**Report Author:**                  Wayne Bertram, Manager Sustainable Development  
    Noreen Scott, EA Sustainable Environment and Economy  
5    **File No:**                            I2016/700  
       **Theme:**                        Ecology  
    Development and Approvals

**Summary:**

Council at the Ordinary Meeting 17 September 2015 considered a report regarding the rehabilitation works required for the Broken Head Quarry at Suffolk Park.

In relation to this report Council resolved the following:

**15-452 Resolved:**

1. *That Council note the report on rehabilitation works as required within the original consent conditions.*
2. *That Council contact the owners of the land and request an update on the plan for rehabilitation works.*

**15-453 Resolved:**

*That Council receive a report, as soon as the current court case is over, on enforcement action to achieve the outstanding rehabilitation.*

This report provides an update in relation to compliance action in relation to Council resolutions 15-452(2) and 15-453.

As the NSW Department of Planning and Environment was the original consent authority for the development application it is considered the appropriate regulatory authority for enforcement of the quarry development. Council's compliance staff are currently working with the NSW Department of Planning and Environment, who have taken the lead role to ensure that all conditions of development consent are met.

**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.

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**RECOMMENDATION:**

**That Council note the report.**

**Attachments:**

- 1      Letter Department of Urban Affairs and Planning dated 26 May 1999, E2016/50886

## Report

### Background

Broken Head Quarry was approved by way of a Commission of Inquiry in 1998 under Development Consent 5.1997.465.1. The whole site has an area of 52.32 ha, being 24.61 ha on the eastern side of Broken Head Road and 27.71 ha on the western side of Broken Head. Approximately 22 hectares has been developed and disturbed from existing and past quarrying activities, whilst the remainder of the site comprises vegetation.

In response to a loss of some 10.8 hectares of native vegetation, the development consent for the expansion and continuation of the quarry required rehabilitation to be undertaken. Rehabilitation was required to be undertaken in sections (following the sequence of extraction), once quarrying activity in each section was completed. Rehabilitation involved earthworks to achieve an amenable landform and restoration of native vegetation. Methods (including the flora species to be used) for both 'temporary' and 'final' rehabilitation methods are detailed within the application and made valid through consent conditions.

The sand and gravel stocks within the approved quarry area are now nearly exhausted. Seeking an alternative use for the site, in 2014 the quarry owners sought development consent for a Community Title development comprising 41 residential lots, as well as common property and service areas.

Council resolved in November 2014 (**14-645**) to refuse the development application No. 10.2014.331.1 for reasons including permissibility under current and proposed land use zones and the 'sterilisation' of areas understood as required to be restored and protected.

### Court Actions

As a result of the refusal of DA No. 10.2014.331.1 a Class 1 application seeking orders that DA No. 10.2014.331.1, for a Community Title subdivision to create 45 lots, comprising 42 residential lots, 2 neighbourhood property lots and 1 common property lot on part of the Broken Head sand and gravel quarry, be approved.

On 1 December 2015 Acting Senior Commissioner Brown delivered judgment in the proceedings with the orders of the Court as follows:

- (1) *The appeal is dismissed.*
- (2) *Development Application 10.2014.331.1 for the subdivision of land known as the Broken Head Quarry, off Broken Head Road, Broken Head is refused.*
- (3) *The exhibits are returned with the exception of exhibit 2.*

Essentially, the Commissioner found that the proposed development is not consistent with the objectives of the 1(e) Extractive Resources Zone under LEP 1998.

The applicant for development consent then appealed against that dismissal on a number of questions of law. An error with respect to a question of law is the only basis available to appeal against a decision of a Commissioner. The appeal was heard before a Judge of the Land and Environment Court on 26 May 2016. Judgement was delivered on 31 May 2016.

The Court found that the appellant was unable to demonstrate any error on a question of law in the (then) Acting Senior Commissioner's process and the appeal was dismissed.

**Council Resolutions**

5 In relation to Council resolution **(15-452(2))** Council staff wrote to the owners of the land and requested an update on the plan for rehabilitation works in November 2015 and again in March 2016. As at the 24 June 2016 Council had not received any response to Council's request to provide information for the rehabilitation of the quarry site.

10 As Council had not received any response to the request for information, staff contacted the compliance division of the NSW Department of Planning and Environment in order to progress the compliance with the terms of the development consent.

15 In relation to Council resolution **(15-453)** Council's compliance staff are currently working with the NSW Department of Planning and Environment, who have taken the lead role to ensure that all conditions of development consent are met so that the progressive and final rehabilitation of the quarried areas occur. As the NSW Department of Planning and Environment was the original consent authority for the development application they are considered the appropriate regulatory authority for enforcement of the development.

**Financial Implications**

20 All enforcement requirements of Development Application 97/0465 will be undertaken by the compliance division of the NSW Department of Planning and Environment and as such there will be limited resource and financial implications for Council.

25 **Statutory and Policy Compliance Implications**

Nil.

**Report No. 13.7      PLANNING - Draft Rural Land Use Strategy: Public Submissions Report**

**Directorate:** Sustainable Environment and Economy  
**Report Author:** Alex Caras, Team Leader Land Use Strategy  
**File No:** I2016/734  
**Theme:** Ecology  
 Planning Policy and Natural Environment

**Summary:**

Council has prepared a draft Rural Land Use Strategy (RLUS) to guide the future zoning and use, protection and/or development of our rural lands over the next 20 years. The draft RLUS and supporting documents were exhibited for just over six weeks. Over 830 submissions were received raising a range of issues. The majority of submissions came from the local community, with many of their issues being strongly aligned with those identified in government agency submissions.

The community is generally positive about the future of agriculture in the Shire and region and supports the policies for securing long term environmental and rural economy outcomes. The local community is also passionate about their rural areas and the values they provide, with the prevailing concern being a lack of trust and confidence in the process and strategy to deliver on these outcomes. The overall view was that the consultation does not reinforce a two way relationship between the community and Council, the actions are in some cases at odds with the generally well supported RLUS policy directions and there is a bias towards facilitating rural lifestyle living opportunities.

The Department of Planning & Environment (DPE) submission has recommended a number of significant amendments to the determination of rural lifestyle living opportunities to ensure that the strategy is consistent with State policy and to enable State Government endorsement. This has resulted in a significantly reduced number of priority areas than was exhibited, which will also require a road intersection assessment (capacity and functionality) to ensure that the sites identified (Attachment 3) can accommodate future development.

This report presents a summary of the key issues raised in public submissions to the draft RLUS, including a planning response to these, and recommends that Council adopt the proposed changes to the draft RLUS to enable submission to DPE for final endorsement. As the draft RLUS is intended to be a 'living' document, it will be reviewed periodically with the aim of making further improvements as new information becomes available.

**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.

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**RECOMMENDATION:**

**That Council:**

- a) **adopt the proposed amendments to the draft Rural Land Use Strategy (RLUS) and supporting documents as contained in Table 1 of this report, to enable submission to and final endorsement by Department of Planning & Environment;**



- b) prior to submitting a final RLUS to the Department of Planning & Environment, undertake an intersection 'capacity and functionality' assessment for priority rural lifestyle living opportunity areas '1' and '2' (as identified in Attachment 3), to determine whether the nearest road intersection servicing each area can accommodate future development; and**
- c) incorporate the assessment outcomes from '2.' above into the RLUS (where applicable) prior to submitting to the Department of Planning & Environment for final endorsement.**

**Attachments:**

- 1 Submissions Summary Report, E2016/63451
- 2 Submissions from Government Agencies, E2016/63299
- 5 3 Draft Rural Land Use Strategy – revised Map 4 and Table 9, E2016/63452
- 4 Draft Rural Land Use Strategy – exhibition version, E2016/63346
- 5 Form of Special Disclosure of Pecuniary Interest, E2012/2815

10

## Report

### Overview

The draft Rural Land Use Strategy (RLUS) has been prepared as part of a staged process that commenced in early 2015. The draft RLUS will guide the future zoning and use, protection and/or development of our rural lands over the next 20 years.

At the Ordinary Meeting of 17 March 2016, Council resolved (*Resolution 16-097*) to publicly exhibit the draft RLUS for a minimum period of 6 weeks. This report presents a summary of the key issues raised in public submissions together with a planning response to these and recommended changes to the RLUS to enable endorsement by Department of Planning & Environment (DPE).

### **Consultation**

The draft RLUS and supporting documents were exhibited for just over six weeks from 7 April 2016 to 20 May 2016. Community engagement during this period included stakeholder notification, advertisements, interactive website, information stalls, meetings with community group representatives (eg Main Arm Progress Association; Skinners Shoot Residents Association; Northern Rivers Food), community forum and responding to phone/email enquiries. Relevant government agencies were also notified and staff held follow-up discussions with DPE.

Over 830 submissions were received raising a range of issues but generally focused on the rural settlement aspects of the draft RLUS. The majority of submissions came from the local community, with many of their issues being strongly aligned with those identified in the government agency submissions received (eg. need for RLUS to provide greater certainty). There were also a number of submissions in support of the non-settlement aspects of the draft RLUS, including measures that work towards a prosperous agricultural sector that looks after the natural resource base and encourages the establishment of priority enhancement corridors. The submissions have been summarised along with corresponding planning comments and/or recommendations in Attachment 1.

Copies of government agency submissions are contained in Attachment 2, while copies of all submissions have been provided to councillors on CD.

### Key Amendments Arising from Submissions

A number of amendments are proposed to the draft RLUS to address key issues raised by the community and government agencies. The most significant amendments are in response to submission issues raised by DPE and are considered necessary to enable their endorsement of the draft RLUS. These are set out below:

1. Inclusion of **slopes > 25% (14 degrees)** in Table 1 of Site Suitability Criteria and Mapping Methodology (reduced from original threshold of slopes > 32% or 18 degrees)

This amendment is to be applied in the determination of unconstrained land for priority rural lifestyle living opportunities.

2. **Exclusion of 2km service catchments**

3. **Exclusion of areas that cannot be adequately serviced by existing or committed road infrastructure**

Amendments '2' and '3' are to be applied in the determination of suitable localities for priority rural lifestyle living opportunities and affect Site Suitability Criteria and Mapping Methodology, Policy Directions Paper and draft RLUS.

This is consistent with DPE's settlement planning guidelines (principles 19 and 20) and the approach applied to other councils to ensure that identified priority release areas can be serviced adequately by existing or committed road infrastructure.

**5      4. Removal of Figure 4 and all variation criteria**

This is to be replaced by revised criteria used to identify priority rural lifestyle living opportunities (Section 3.3, Map 4 and Table 9 of draft RLUS)

**10      5. Revised Priority Release Areas** to better reflect unconstrained land in appropriate locations having regard to amendments '1' – '4' above (Attachment 3).

Table 1 details proposed amendments to the draft RLUS and supporting documents. All RLUS references (e.g. section, map) relate to the exhibited version (Attachment 4)

15

Abbreviations used to identify the source of changes proposed are as follows:

**Source Abbreviation Explanation**

DPE (Department of Planning and Environment)	DIRE (Department of Industry, Resources and Energy)
OEH (Office of Environment and Heritage)	SCS (supported by community submissions)
DPI (Department of Primary Industries)	RCS (data accuracy matter raised in community submission)
Rous (Rous Water)	Int (Internal staff recommendation to improve clarity)

**Table 1 – Recommended changes to draft RLUS**

20

Item No	Revision Item	Source of change	Document requiring amendment (section / map/ page reference)		
			Policy Directions Paper	SSCMM	RLUS and Appendix
1)	<b>Housing supply / demand</b>	DPE SCS			✓  (RLUS sections 3 & 4; App 1)
	i. Provide a 20 year supply/demand context to inform the draft RLUS and include analysis in Appendix 1 (with corresponding reference in RLUS document)				
	ii. Relate analysis to existing village supply and existing R5 supply (ie. how much is required to cover a 5-year shortfall?)	DPE SCS			(RLUS sections 3 & 4; App 1)
	iii. Add a notation on Page A-9 under 'What guidelines may be needed' that provides supporting rationale behind Action 6 (ie. improving Council's data base on subdivision and dwelling approval) in the RLUS	DPE SCS			(App 1)

Item No	Revision Item	Source of change	Document requiring amendment (section / map/ page reference)		
			Policy Directions Paper	SSCMM	RLUS and Appendix
	iv. Amend RLUS to reflect Community Title approvals in the Main Arm locality.	RCS			(RLUS Map 1)
2)	<b>Purpose of key documents</b> <u>Site Suitability Criteria and Mapping</u> i. Revise 1.2 (Purpose) wording to reflect that primary purpose was to identify potentially suitable land for rural tourism, RLLO and Urban Investigation.	Int	✓	✓	✓
	ii. Revise 1.3 (Study approach) to clarify that a 2-step analysis was undertaken: a) Step 1: Identification of potentially suitable land for rural tourism, RLLO and Urban Investigation – noting that preferred RLLO areas are further investigated in RLUS process (Step 2 below) b) Step 2: more detailed investigation of preferred RLLO development areas (ie. based on revised criteria as detailed in Item 4 of this table)	DPE SCS		(p1)	(RLUS Sec 3.1 p.14)
	iii. Clarify that SSCMM is a 'living document' that will be updated as needed to reflect latest information available, trends in best practice, etc.	Int		(Sect 1.2, p1)	RLUS Sect 4.1, p38  RLUS Maps 1, 4,4a and 4b;  (App 2)
	<u>Policy Directions Paper</u>	Int			
	iv. Clarify that policy directions are intended to secure long term outcomes and apply over the Strategy's 20-year timeframe	SCS	(Sect 1.2, p1)		(RLUS Overview p8; Monitoring and Review p63)

Item No	Revision Item	Source of change	Document requiring amendment (section / map/ page reference)		
			Policy Directions Paper	SSCMM	RLUS and Appendix
3)	<b>Constrained, Assessable and Unconstrained Land Classification</b>		✓	✓	✓
	i. Revise classification to include the following in Table 1 'Constrained Land': a) Revised slope constraint threshold of 25% or 14 degrees (reduced from 32% or 18 degrees); b) 1:100 year flood risk and climate change lands identified in the North Byron Flood Study Mapping, Belongil 100 year inundation and West Byron flood planning area	DPE Rous CSC	(Sect 2.4, p.5)	(Sects 2 – 5);  (Maps 5 and 16)	(RLUS Sect 3.1 p.14)
	ii. Remove Koreelah Quarry' site in Skinners Shoot (confirmed in advice from GSNSW)	DIRE		(Map 4 and Section 3.4)	
	iii. Provide additional clarity on buffers applied to Sensitive Farmland Rating uses	DPI SCS		(p16; Map 11)	
4)	<b>Map 4 priority rural lifestyle living opportunities (RLLO)</b>	DPE OEH DPI SCS	✓	✓	✓
	i. Amend Maps 4, 4a and 4b to reflect the following priority RLLO determination criteria : a) Situated west of the Pacific Highway (undeveloped sites only) AND within a 5 km radius of a town with a high school b) Not identified in a draft or adopted strategy for future urban purposes c) contains at least 10 ha of unconstrained land AND does not require access through constrained land as identified in Table 1 of the Site Suitability Criteria and Mapping Methodology		(p10)	(p2) (Table 3)  (Map 19A)  (Sect 5)	(RLUS Sects 3.3, 3.4 and 4.1)  (RLUS Table 9)  (RLUS Maps 4,4a and 4b)  (App 2)

Item No	Revision Item	Source of change	Document requiring amendment (section / map/ page reference)		
			Policy Directions Paper	SSCMM	RLUS and Appendix
4)	<p>d) can be adequately serviced by existing or committed road infrastructure at a standard suitable for predicted level and type of traffic resulting from development.</p> <p>[Note: An intersection assessment (capacity and functionality) will be required for priority sites '1' and '2' identified on revised Map 4, to confirm suitability for DPE endorsement and to satisfy Policy Direction 3 of 'Our Rural Infrastructure' (ie. road upgrades at no cost to wider community). This assessment will need to be undertaken prior to submission of a final RLUS to DPE.]</p>				
	<p><b>ii. Amend RLUS to reflect the following priority localities based on revised criteria above:</b></p> <p>(1) <b>McAuley's lane</b>  (2) <b>Wilsons Cr/Alidenes Rd</b>  (3) <b>Coopers Shoot Road</b>  (4) <b>Linnaeus Estate</b></p>				<b>'As above' for 4)(i)</b>
5)	<p><b>Decision framework and Variations (Fig 4)</b></p> <p>i. Remove Figure 4 Decision Framework and all variation criteria and replace with revised criteria detailed in Item 4) i. of this Table.</p>	DPE DPI SCS			<p align="center">✓</p> <p>(RLUS Figure 4; p34; and Map 4)</p>
6)	<p><b>Future urban/village residential investigation areas</b></p> <p>i. Delete references to 'village' and ensure RLUS section 3.3.2 adequately addresses villages</p> <p>ii. Reframe related wording so that it does not appear to pre-empt the Residential Strategy (in preparation)</p> <p>iii. Relocate Table 10 and Maps 5, 5a and 5b to an Appendix</p>	DPE			<p align="center">✓</p> <p>(RLUS Sections 3.3.2 and 4.2)</p> <p align="center">(App 2)</p>

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.7

7)	<b>Miscellaneous additional Policy Direction changes</b> i. Rural Economy 3.4 Policy Direction 1 – remove reference to draft NCRP and farmland variation criteria	DPE	✓  (Sect 3.4, p.6)		✓  (RLUS Sect3.2, p.18)
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Item No	Revision Item	Source of change	Document requiring amendment (section / map/ page reference)		
			Policy Directions Paper	Policy Directions Paper	Policy Directions Paper
8)	<b>Miscellaneous additional RLUS Action changes</b> i. Amend Table 2 by inserting:  a) <u>Planning Improvements</u> : an addition dot point under the action for opportunities in our local planning framework:  <ul style="list-style-type: none"> <li><i>‘rural tourism opportunities that are directly associated with primary production’</i></li> </ul> b) <u>Planning Improvements</u> : two additional dots point under the action for reviewing guidelines to manage potential impacts:  <ul style="list-style-type: none"> <li><i>‘needs of emergency management and disaster preparedness.’</i></li> <li><i>‘the siting, design and function of buffers’</i></li> </ul> c) <u>Partnership Building</u> : a new dot point as follows:  <ul style="list-style-type: none"> <li><i>‘investigate opportunities for council to partner with the community to ensure a long-term future of agriculture in the Shire’</i></li> </ul>	DPI SCS			✓  (RLUS Table 2 p19)
	ii. Amend RLUS Table 3 ‘Partnership Building’ by inserting:  a) a new action in Planning Improvements:  <i>‘investigate a strategic framework for resolving dwelling entitlement issues’</i>	SCS			✓  (RLUS Table 3 p25)

Item No	Revision Item	Source of change	Document requiring amendment (section / map/ page reference)		
			Policy Directions Paper	Policy Directions Paper	Policy Directions Paper
	b) two new actions in Partnership Building: <ul style="list-style-type: none"> <li>• <i>‘to identify opportunities in our local planning framework to achieve ongoing conservation and protection of culturally significant lands’</i></li> <li>• <i>‘work with traditional owners to identify ways to improve the ongoing protection of culturally significant lands.’</i></li> </ul>	OEH SCS			
	iii. Insert a reference to the Wilson River Catchment Management Plan in Figure 2	Rous			✓ RLUS Fig 2
9)	<b>Action Plan</b> i) Amend relevant Actions to accord with above changes	Int			✓ RLUS Table 11

Government Agency Submissions

- 5 It is important to understand that submission issues raised by the relevant government agencies can be an overriding determinant of what, if any, post-exhibition changes are made to the draft RLUS. This is because the draft RLUS must be consistent with the relevant State/regional planning and policy framework (e.g. s117 directions; SEPPs; settlement planning guidelines). As the RLUS requires approval by the Director-General of the Department of Planning & Environment (DPE) before it can come into effect, the strongest weighting has been given to the changes requested by DPE (Attachment 1). Council's support for these changes, which strongly align with submission issues raised by the local community, is considered fundamental to DPE's endorsement of a final RLUS.

Future Monitoring, Review and Amendments

- 15 The draft RLUS is intended to be a 'living' document to guide the future zoning and use, protection and/or development of our rural lands over the next 20 years. Once adopted, there will be ongoing annual monitoring of the Strategy with the aim of making further improvements as additional information becomes available. This includes monitoring of the implementation of Strategy actions as well as approvals for future rural lifestyle living opportunities, rural secondary dwellings and subdivision in our village zones.

- 20 A comprehensive review of the Strategy and supporting documents will be required every 5 years at a minimum to collectively consider annual monitoring information and determine what, if any, additions or deletions should be made to land nominated in the Strategy for rural lifestyle living opportunities. Any future strategy amendments will require DPE endorsement to take effect.
- 25



**Recommendation**

This report recommends that Council:

- 5     • adopt the proposed amendments to the RLUS and supporting documents as contained Table 1 of this report;
- undertake an 'intersection capacity and functionality' assessment for priority rural lifestyle living opportunity areas '1' and '2' shown on the revised RLUS Map 4 (Attachment 3), to ensure there will be adequate capacity to accommodate future development;
- 10    • amend RLUS to incorporate the 'intersection capacity and functionality' assessment outcomes (as applicable) prior to submitting to the Department of Planning & Environment for final endorsement.

**Financial Implications**

- 15     The cost of preparing the draft RLUS has been met by Council.
- The costing did not include provision for an intersection capacity and functionality assessment for priority rural lifestyle living opportunity areas '1' and '2' (Attachment 3). This cost would normally be met by the applicant (developer) at the planning proposal stage. However given the State Government's position that the assessment should be undertaken as part of the strategy preparation and prior to its endorsement, this cost will need to be met in the short term by Council and can be funded out of the existing budget.
- 20
- 25     There may be scope to recuperate this cost, should the findings of this assessment determine that one or more of the areas can proceed subject to a Section 94 Area-Specific Contributions Plan being prepared.

**Statutory and Policy Compliance Implications**

- 30     The proposed changes to the draft RLUS and supporting documents are consistent with the relevant Commonwealth, State and Regional policy frameworks.

**Report No. 13.8      PLANNING - 10.2016.152.1 Secondary Dwelling, 30 Pinegroves Road, Myocum**

**Directorate:** Sustainable Environment and Economy

**Report Author:** Rob Van Iersel, Consultant Planner  
Shannon Burt, Director Sustainable Environment and Economy

**File No:** I2016/741

**Theme:** Ecology  
Development and Approvals

**Proposal:**

**DA No:** 10.2016.152.1

**Proposal:** Secondary Dwelling

**Property description:** LOT: 12 DP: 854466  
30 Pinegroves Road MYOCUM

**Parcel No/s:** 205870

**Applicant:** Mr G M Chaffer & Ms R A Chaffer

**Owner:** Mr G M & Ms R A Chaffer

**Zoning:** Zone No. R5 Large Lot Residential

**Date received:** 16 March 2016

**Integrated Development:** No

**Public notification or exhibition:**

- Level 1 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications
- Exhibition period: 7 April 2016 to 20 April 2016
- Submissions: 3 Against

**Other approvals (S68/138):** On-site Sewage Management System (70)

**Issues:**

- Located in a bushfire buffer area
- Located within front boundary setback

**Summary:**

Development consent is sought for a Secondary Dwelling on a property located at 30 Pinegroves Road, Myocum. The property is a rural residential lot with an area of 4,300m<sup>2</sup>. It is located off the eastern end of Pinegroves Road, which ends in a cul-de-sac close to the north-eastern corner of the property. The road then continues as a sealed 'driveway' within the road reserve along the eastern boundary of the site, servicing a number of properties to the south.

The property has approximately 90m road frontage along this eastern boundary. It contains an existing residential dwelling, shed and swimming pool, with two driveways, one in the north-east corner accessing the shed and the second adjacent to the dwelling.

The proposed development seeks approval for the construction of a single-storey, one-bedroom, secondary dwelling on the subject site.

An objection to the proposal has been submitted by a councillor, who is a neighbour of the subject property. In the interests of probity, Council has a procedure that where submissions to a development application have been lodged by councillors, the application is to be assessed by an independent planner and determined by Council.

The assessment and recommendation of the independent planner is contained in this report.

The proposed development is permissible pursuant to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009, and is generally consistent with the provisions of Byron LEP 2014 and DCP 2014. It is not likely to result in significant impacts on the existing environment. It is recommended that consent be granted subject to conditions.

**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.

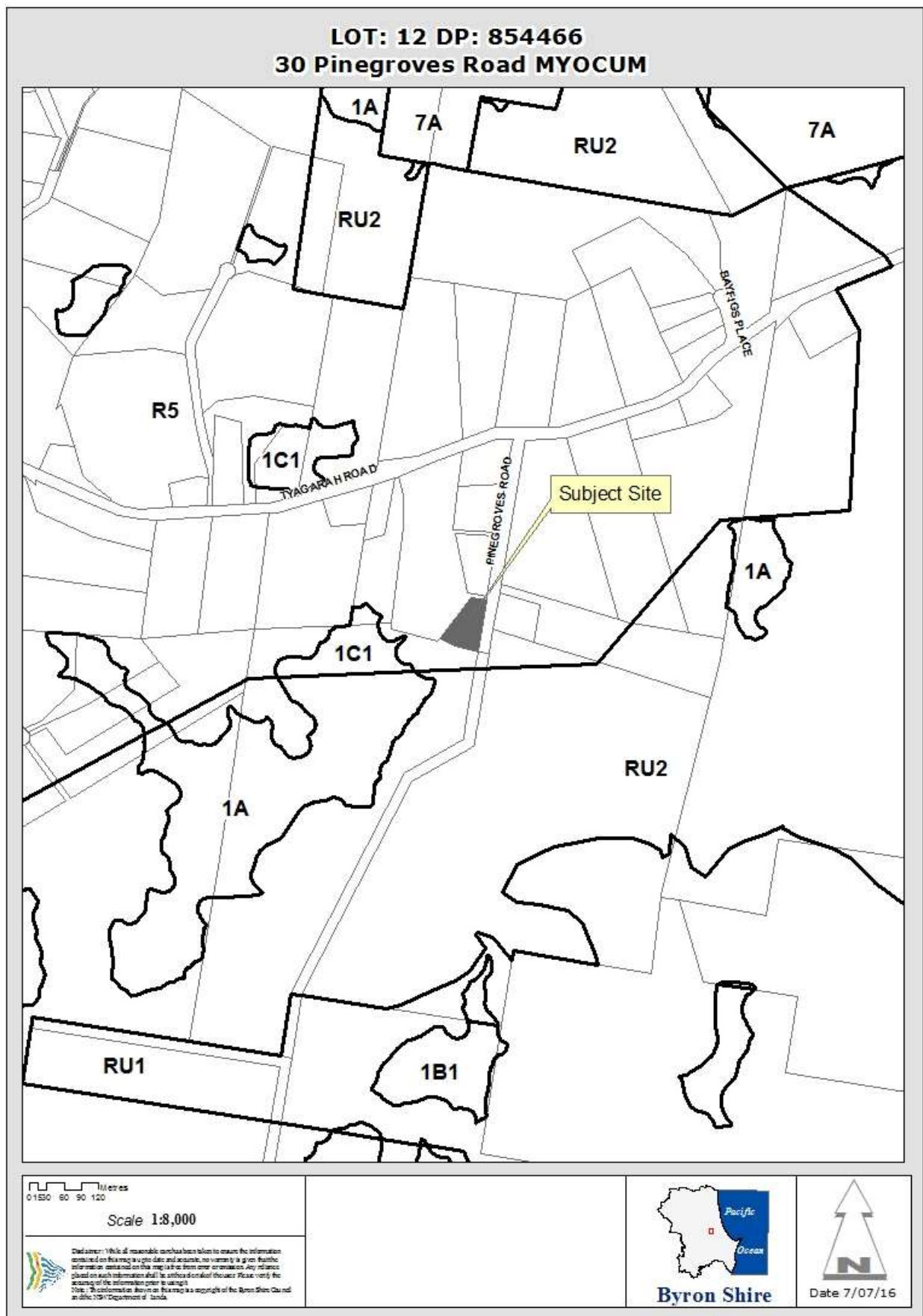
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**RECOMMENDATION:**

**That, pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application no. 10.2016.152.1 for a secondary dwelling, be granted consent subject to the conditions in Attachment 1 (#E2016/53838).**

**Attachments:**

- 1 Proposed Consent Conditions 10.2016.152.1, E2016/53838
- 2 Proposed Plans 10.2016.152.1, E2016/53839
- 3 Confidential - Submissions received 10.2016.152.1, E2016/53840



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

The subject site has been developed with a double-storey dwelling house including carport. Consent for the existing dwelling was issued on 15 September 2005 and a Construction Certificate was issued on 9 June 2006. The land is zoned R5 Large Lot Residential under Byron LEP 2014.

**1.2 Description of the site**

The subject site is a rural residential property located at 30 Pinegroves Road, Myocum with an area of 4,300m<sup>2</sup>. It is located off the eastern end of Pinegroves Road, which ends in a cul-de-sac close to the north-eastern corner of the property. The road then continues as a sealed 'driveway' within the road reserve along the eastern boundary of the site, servicing a number of properties to the south.

The property has approximately 90m road frontage along this eastern boundary. It contains an existing residential dwelling, shed and swimming pool, with two driveways, one in the north-east corner accessing the shed and the second adjacent to the dwelling. The site context is shown below.



**Figure 1: Aerial Photo**

The existing dwelling is located at the top of the site, which falls steeply to the south. There is established vegetation along much of the street frontage, with a number of large trees adjacent to the southern boundary. The remainder of the site is predominantly clear of vegetation with the exclusion of landscape plantings near the dwelling and towards the north-western corner of the site.

The site is identified as being designated bushfire prone land (Figure 2), located partly within the buffer zone, and is proximate to Vegetation Category 1 Zone to the south (>90m from proposed secondary dwelling).



**Figure 2: Bushfire Prone Land – Buffer Area**

### 1.3 Description of the proposed development

The proposed development seeks approval for the construction of a secondary dwelling on the subject site, which will contain:

- One (1) bedroom;
- Combined kitchen and living room;
- Combined bath and laundry room; and
- 15m<sup>2</sup> verandah.

The secondary dwelling will be constructed using 'woodland grey colourbond corrugated vertical steel' wall cladding and 'basalt colourbond bondor solarspan' corrugated roof panels. It has a timber floor, generally at ground level on the northern elevation, and raised approximately 2.5m above existing ground level at the southern elevation. Vertical timber slats are proposed to shield the underfloor area. It has a total floor area of 50.4m<sup>2</sup>.

Private open space will be provided by two verandahs on the northern and southern sides of the living room.

## 2. SUMMARY OF GOVERNMENT/EXTERNAL REFERRALS

	Summary of Issues
Development Engineer	Not required for this application
Environmental Health Officer	Supported conditionally
Water & Waste Services	Not required for this application
Building Surveyor	Not required for this application
Fire Control Officer	Not required for this application
Ecologist	Not required for this application
Tree Preservation Officer	Not required for this application
Government Authorities	Not required for this application

## 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.

**SECTION 79B**

Under S79B of the Act, Council must be satisfied that prior to making a determination for development on bushfire prone land, that the development complies with the document Planning for Bushfire Protection 2006 (PBP). The site is designated as bushfire prone land. A discussion of the relevant issues under PBP is addressed below.

**Section 79BA****1. Vegetation and Slope Category**

Direction	Slope	Vegetation Category	Distance to Hazard	Proposed APZ
North	Up Slope	Managed Land	35m	10m
East	Flat	Managed Land	40m	10m
South	Downslope (10-15°)	Forested Wetland	90m	30m
West	Flat	Rainforest	100m	10m

**2. Construction Standards and Design**

Based on the distance to hazards, slopes and vegetation categories above, Table A3.4 of Appendix 3 in *Planning for Bushfire Protection 2006* provides that the proposed development should be constructed in accordance with **BAL 12.5**.

Recommend that a Condition be applied requiring the construction to comply with the requirements of sections 3&5 and **BAL12.5** under section 6 of AS3959 – 2009.

**3. Asset Protection Zones**

Based on the distance to hazards, slopes and vegetation categories above, Table A2.5 of Appendix 2 in *Planning for Bushfire Protection 2006* provides that the proposed secondary dwelling should have a minimum APZ to the North, East and West of **10m** and **30m** to the South.

The required **10m** APZ to the North, East and West, and **30m** APZ to the South can be accommodated using the land within the allotment and the road reserve to the east.

A condition is recommended that the appropriate parts of the site be managed as an Inner Protection Area, as outlined in section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' (PBP) and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

**4. Landscaping**

No additional landscaping is proposed in conjunction with the development of the Secondary Dwelling.

**5. Services**Public Roads

The site has access directly onto Pinegroves Road, which is a two-way sealed public road, which is adequate to handle vehicle movements in an emergency.

Water

The site is serviced by onsite rainwater storage and a new tank is proposed to be connected to the secondary dwelling.



Electricity

Electricity is supplied to the subject site and will be connected to the proposed dwelling.

**6. Fencing**

- 5 No additional fencing is proposed as part of the development.

**State/Regional Planning Policies and instruments - Issues**

**3.1. STATE/REGIONAL PLANNING POLICIES AND INSTRUMENTS**

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Requirement	Requirement	Proposed	Complie s
<b>State Environmental Planning Policy (Affordable Rental Housing) 2009</b>	A secondary dwelling is permissible in the R5 zone pursuant to cl 23 of this SEPP. The provisions of the SEPP are addressed below.		Yes
<b>State Environmental Planning Policy (Rural Lands) 2008</b>	Applies considerations to rural subdivisions or rural dwellings in a rural zone, a rural residential zone or an environment protection zone: (a) the existing uses and approved uses of land in the vicinity of the development, (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development, (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b), (d) if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone, (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).		Yes
<b>State Environmental Planning Policy BASIX – Building Sustainability Index</b>	BASIX Certificate Required for: • <b>New dwellings</b> • Alterations > \$50,000:00 • Pools > 40,000 kl	A BASIX certificate has been provided with the development application relating to the <b>new secondary dwelling</b> .	Yes
<b>Building Code of Australia</b>	The proposal must be capable of compliance with the structural and safety requirements of the Building Code of Australia.	A condition has been recommended for inclusion in the consent to ensure the BCA requirements are met.	Yes
<b>Demolition</b>	Not Applicable		Yes
<b>Disability Access (DDA)</b>	Access for persons with disabilities and integration into surrounding streetscapes without creating barriers. (Council Res.10-1118)	Access to dwellings is provided wholly within the property.	Yes

**State/Regional Planning Policies and instruments - Issues**

**State Environmental Planning Policy (Affordable Rental Housing) 2009:**

- 15 In this SEPP, a secondary dwelling is defined as:  
*a self-contained dwelling that:*



- (a) is established in conjunction with another dwelling (the **principal dwelling**), and*
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling.*

The proposal is consistent with this definition.

The provisions relating to secondary dwelling apply to land within the R5 zone and cl 22(1) provides that a secondary dwelling is permissible with development consent in this zone.

The proposal complies with the relevant provisions of cl 22, as outlined below:

- 2) *A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.*

Complies. The proposal will result in only one principal dwelling and the proposed secondary dwelling.

- 3) *A consent authority must not consent to development to which this Division applies unless:*

- (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and*

Complies. BLEP 2014 does not specify a maximum floor space ratio in this locality.

- (b) the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.*

Complies. The floor area of the secondary dwelling is 50.4m<sup>2</sup>.

- 4) *A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:*

- (a) site area*

*if:*

- (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or*
- (ii) the site area is at least 450 square metres,*

Complies. The proposed second dwelling is not within or attached to the primary dwelling, but the site is well over the 450m<sup>2</sup> minimum area requirement.

- (b) parking*

*if no additional parking is to be provided on the site.*

No additional parking is proposed. However, space is available on-site for parking adjacent to the existing driveway.

**3.2. BYRON LOCAL ENVIRONMENTAL PLAN 2014**

**Zone: R5 Large Lot Residential**

**Definition: Secondary Dwelling**

LEP Requirement	Summary of Requirement	Proposed	Complies
<b>Permissible use – Secondary Dwelling</b>	<p><b>secondary dwelling</b> means a self-contained dwelling that:</p> <ul style="list-style-type: none"> <li>a) is established in conjunction with another dwelling (the principal dwelling), and</li> <li>b) is on the same lot of land as the principal dwelling, and</li> <li>c) is located within, or is attached to, or is separate from, the principal dwelling.</li> </ul>	<p>See above. A secondary dwelling is permissible with consent in the R5 zone pursuant to cl 22 of SEPP (Affordable rental Housing) 2009.</p> <p>The provisions of this SEPP 'over-ride' the provisions of BLEP 2014.</p>	Yes
<b>Meets R5 (Large Lot Residential) Zone objectives</b>	<ul style="list-style-type: none"> <li>• To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.</li> <li>• To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.</li> <li>• To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.</li> <li>• To minimise conflict between land uses within this zone and land uses within adjoining zones.</li> </ul>	<p>The secondary dwelling will not hinder the development of the site into the future.</p> <p>The secondary dwelling will not conflict with adjoining land uses as the site is surrounded by R5 Zoned land.</p>	Yes
<b>CI 4.3 Height of Buildings.</b>	Overall height of development must not exceed 9.0m above existing ground level	The maximum height of the secondary dwelling will be 5.5m above ground level. The secondary dwelling will not exceed 9.0m from ground level.	Yes
<b>CI 5.4 Controls relating to miscellaneous permissible uses</b>	(9) Secondary dwellings If development for the purposes of a secondary dwelling is permitted, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the	The secondary dwelling has a total floor area of 50.4m <sup>2</sup> .	Yes

LEP Requirement	Summary of Requirement	Proposed	Complies
	following is the greater:60 square metres, a) 35% of the total floor area of the principal dwelling.		
<b>CI 5.9: Preservation of trees or vegetation</b>	The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.	The proposed development does not involve the removal of significant vegetation onsite, although some landscape plantings will be removed. Additional planting is recommended to compensate for this removal and to retain a visual 'shield' along the adjoining road frontage.	Yes
<b>CI 6.2 – Earthworks</b>	Earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	The proposed secondary dwelling is designed on piers and will involve minimal earthworks.	Yes
<b>CI 6.6: Essential Services</b>	<ul style="list-style-type: none"> <li>• water,</li> <li>• sewer,</li> <li>• electricity</li> <li>• stormwater</li> <li>• vehicle access</li> </ul>	Rainwater Tanks OSMS – Conditions attached Connected Rainwater Tanks Direct to Pinegroves Road	Yes Yes Yes Yes Yes

**Byron Local Environmental Plan 2014 - Issues**

- 5 No significant issues are related to the proposal.

**3.3 DEVELOPMENT CONTROL PLANS**

**Development Control Plan 2014**

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Development Control Requirement	Requirement	Applicable/Complies?
<b>Part B Controls Applying Generally to Development Application</b>		
<b>B3 &amp; B4: Services &amp; Vehicle parking</b>	Dwelling= 2 spaces  As outlined above, the provisions of SEPP (Affordable Rental Housing) 2009 provide that additional parking is not mandatory for a secondary dwelling. Notwithstanding this, there is space within the subject site, adjacent to the proposed secondary dwelling, that could provide parking for 2 cars.	Yes

<b>B6 Buffers and Minimising Land Use Conflict</b>	To ensure that development proposals are designed to minimise land use conflicts.  The secondary dwelling is appropriately located away from surrounding rural properties and complies with Table B6.1 in relation to rural activities.		Yes
<b>B8.3.2 Construction of Buildings or Structures</b>	A Site Waste Minimisation and Management Plan (SWMMP) must be submitted with Development Applications seeking consent for construction of buildings or structures. This can be conditioned in this case.		Yes
<b>Part D – Chapter D1 Residential Accommodation in Urban, Village and Special Purpose Zones</b>			
<b>D1.2.1 Building Height Plane</b>	The proposed second dwelling complies with the BHP.		Yes
<b>D1.2.2 Setbacks from Boundaries</b>	<b>Road (East) – 4.5m</b>	<b>3m</b>	No – Assessment provided below
	<b>Side and Rear:</b> Consistency with Objectives and Performance Criteria. Compliance with BCA. Assessment of DCP 2014 Chapter B6 Buffers and Minimising Land Use Conflict.  Located approximately 40m to southern and western boundaries and 12m from existing dwelling house onsite.		Yes
<b>D1.2.3 Screening the Underfloor Space of Buildings</b>	Vertical timber slats are proposed to screen the underfloor.		Yes
<b>D1.2.4 Character and Visual Impact</b>	The proposed second dwelling has been sited within the property to minimise the earthworks that would be needed if it were located further away from the road boundary. Because of the slope of the land, significant works would be required to get an internal driveway to alternate locations. The existing screen planting at the road boundary will assist to soften the visual impact of the building and additional planting along the boundary is recommended.		Yes
<b>D1.2.5 Fences</b>	No fencing is proposed in this application.		N/A
<b>D1.2.6 Balconies</b>	Verandahs are proposed on the northern and southern elevation but do not dominate the visual character of the building.		Yes
<b>D1.4.1 Private Open Space</b>	The proposed secondary dwelling has access to an extensive area of yard, which can be used as private open space.		Yes
<b>D1.4.2 Access and Car Parking</b>	Access is proposed via the existing driveway, which services the primary dwelling. On-site car parking space is available.		Yes

<b>D1.4.3 Siting, Design and Character</b>	The proposed development is acceptable in terms of compatibility with the primary dwelling and the visual character of the site.	Yes
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*\* Non-complying issues discussed below*

**Development Control Plan 2014 - Issues**

**D1.2.2 Setbacks from Boundaries**

**Objectives**

1. *To achieve varied and interesting streets that complement and harmonise with existing and planned streetscapes and development in the locality.*
2. *To achieve good orientation and spacing of residential developments that achieve high quality living environments relative to sunlight, shade, wind and weather protection, residential amenity and proximity of neighbouring development.*
3. *To achieve effective use of allotments to create useable and liveable private open space and courtyards.*
4. *To provide flexibility in siting and design of dwelling house development in urban residential areas.*

**Assessment**

The subject site has an 80m frontage to the Pinegroves Road (road reserve) along the eastern boundary and the proposed secondary dwelling is located 3m from this frontage. Pinegroves Road terminates in a cul-de-sac head approximately 20m north of the subject site and is unformed along the full frontage of the property; access to the site is via a sealed driveway servicing four (4) properties, which includes the subject site.

The location of the secondary dwelling is behind a stand of existing mature trees, which will screen the development from most adjoining properties and is also sited to provide off-street parking close to the existing dwelling (gravel driveway and parking area).

The secondary dwelling is located to reduce the likelihood of conflict between rural land uses and the proposed development, as the secondary dwelling is setback a significant distance from RU2 Zones, which are within 70m of the development.

Given the secondary dwelling does not front a sealed "thru-road", is screened by mature vegetation and has been located to maximise buffer distances to RU2 Zones, it is considered that the proposed frontage setback is acceptable in this instance.

**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**

<b>Impact on:</b>	<b>Likely significant impact/s?</b>
<b>Natural environment</b>	No. The proposal will not have a significantly adverse impact on the natural environment of the locality.
<b>Built environment</b>	No. The proposal will not have a significantly adverse impact on the built environment of the locality.
<b>Social Environment</b>	No. The proposal will not have a significant social impact on the locality.
<b>Economic impact</b>	No. The proposal will not have a significant economic impact on the locality.

**Site Waste Minimisation and Management:**

Builders rubbish is required to be contained on the site. The site is serviced by Council's domestic waste collection service. A full Site Waste Minimisation and Management Plan will be required with the application for Construction Certificate.

**3.5 The suitability of the site for the development**

The subject site is an existing allotment within the large-lot rural zone. The site is suitable for the proposed development subject to conditions.

<b>Suitability of Driveway Access:</b>	Access to the site is proposed from <i>Pinegroves Road</i> , which terminates 20m to the north of the site. A sealed driveway provides access to the site and a number of other allotments at the end of Pinegroves Road. The existing driveway is satisfactory in this instance and parking and manoeuvring onsite can comply with AS 2890.1:2004, Parking facilities, Part 1: Off-street car parking.
<b>On-site Sewage Management System:</b>	OSMS approved (#A2016/8457).
<b>Buffers from adjoining land uses:</b>	The proposed dwelling house is located a sufficient distance from likely future intensive agriculture or horticulture.
<b>Electricity Supply:</b>	Power is available via existing low voltage power supply.
<b>General:</b>	The proposed dwelling is a suitable form of development for the subject site and is in keeping with the character of the existing development within the locality. The proposed location of the secondary dwelling house is appropriate in relation to the topographic, vegetation and visual impact constraints of the land.

**3.6 Submissions made in accordance with this Act or the regulations**

There were 3 submissions made, objecting to the development application.

<b>Issue</b>	<b>Comment</b>
Insufficient setback from Pinegroves Road  Reduced set back is visual intrusion into rural vista.	<p>The subject site has an 80m frontage to the Pinegroves Road (road reserve) along the eastern boundary and the secondary dwelling is proposed to be located 3m from this frontage. Pinegroves Road terminates in a cul-de-sac head approximately 20m north of the subject site and is unformed along the full frontage of the property. Access within the road reserve past the cul-de-sac is via a sealed driveway servicing four (4) properties, which includes the subject site.</p> <p>The location of the secondary dwelling is behind a stand of existing mature trees, which will screen the development from adjoining properties.</p> <p>It is proposed to be located adjacent to the existing driveway and off-street parking, close to the existing dwelling (gravel driveway and parking area).</p> <p>The secondary dwelling is located to reduce the likelihood of conflict between rural land uses adjoining to the west and south and the proposed development as the secondary dwelling is setback a significant distance from RU2 Zoned, which is around</p>

<b>Issue</b>	<b>Comment</b>
	<p>70m to the south of the development.</p> <p>Given the secondary dwelling does not front a sealed thru-road, is screened by mature vegetation, and has been located to maximise buffer distances to adjoining rural properties, it is considered that the proposed frontage setback is acceptable in this instance.</p> <p>A condition is recommended that additional landscape planting is implemented along the property boundary, directly downslope of the proposed secondary dwelling, to compensate for the removal on existing on-site landscape plantings.</p>
Insufficient setback to Pinegroves – concern that future residents of second dwelling will complain about passing traffic (to complainants property)	<p>The proposed second dwelling is located behind an existing stand of mature trees, which run along the entire length of the Pinegrove Road frontage.</p> <p>These trees provide a visual shield for future residents of the dwelling. Some on-site landscape plantings will be removed for the secondary dwelling and a condition is recommended that additional landscape planting is implemented along the property boundary, directly downslope of the proposed secondary dwelling, which will further assist to address this issue.</p>
Insufficient space to park a car (including visitor parking)	<p>Secondary dwellings are not required to provide additional parking, in accordance with SEPP (Affordable Rental Housing) 2009.</p> <p>Notwithstanding this, parking is available over the gravel turning area that exist onsite.</p>
Road noise will infiltrate into the secondary dwelling given the elevated nature of the development.	There are no restrictions on the applicants providing an elevated construction as the overall height of the dwelling is approximately 5m high – which is well below the 9m maximum height of building overlay.
Stormwater diversion around the dwelling	Stormwater will be diverted around the dwelling to avoid rutting of the piers under the dwelling. This stormwater can adequately discharge across the lot given the 4300m <sup>2</sup> of site area and topography sloping down to the floodplain near the southern boundary of the site.
Concerns about a potential additional access point off Pinegroves Road	There are two existing driveways accessing the site – one to the rural shed in the northern corner and one to the existing dwelling. The proposed secondary dwelling will use the existing driveway that services the dwelling, so no new access points are proposed.

### **3.7 Public interest**

The proposed development does not compromise the public interest.

## **4. DEVELOPER CONTRIBUTIONS**

### **4.1 Water & Sewer Levies**

As there is no increase in the load on these services, no contributions will be required for water and sewer services.

**4.2 Section 94 Contributions**

Clause 2.14 of the S94 Plan states:

- 5     *Development for the purposes of a secondary dwelling as defined in State Environmental Planning Policy will be exempted from the obligation to pay a contribution under this Contributions Plan where the secondary dwelling is integral and subordinate to the primary dwelling. Where the secondary dwelling is subject to the following requirements*
- 10             *a. That the maximum size of the secondary dwelling does not exceed 60m<sup>2</sup>.*
- b. That the floor space ratio for the whole development of the site does not extend beyond 0.5:1 and that 25% of the site must be covered by absorbent surfaces such as lawn or landscaping.*
- 15             *c. That the secondary dwelling does not increase the overall number of bedrooms on the site to greater than 5.*
- d. That the applicant has an approval for a secondary dwelling subject to a condition of consent that the development is not to be used for tourism purposes.*

This proposal meets these requirements. Accordingly no contributions will be levied.

**5. CONCLUSION**

Development consent is sought for a Secondary Dwelling located at 30 Pinegroves Road, Myocum.

The proposed development is permissible pursuant to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009, and is generally consistent with the provisions of Byron LEP 2014 and DCP 2014. It is not likely to result in significant impacts on the existing environment. It is recommended that consent be granted subject to conditions.



**Report No. 13.9                      PLANNING - 26.2016.1.1 - Planning Proposal for rezoning of land at Buckleys Road Tyagarah**

**Directorate:** Sustainable Environment and Economy

**Report Author:** Sharyn French, Manager Environmental and Economic Planning  
Shannon Burt, Director Sustainable Environment and Economy

**File No:** I2016/744

**Theme:** Ecology  
Planning Policy and Natural Environment

**Summary:**

This report outlines the details of an applicant initiated Planning Proposal that was submitted by applicant Ardill Payne & Partners on behalf of Michael and Susanne Hunter (Tyagarah Holdings P/L) in regards to land at Buckleys Road, Tyagarah. The Planning Proposal seeks to alter the land use zones with consequential minimum lot size and floor space ratio changes to permit rural residential development over part of the site. The Planning Proposal has been reviewed and it is recommended that it should not proceed.

If approved, the Planning Proposal would rezone approximately 21 hectares of the existing RU2 Rural Landscape (and Deferred Matter) zones to R5 Large Lot Residential, with the balance of the subject land to remain in its current zones. A minimum lot size of 2000m<sup>2</sup> is proposed by the applicant to be supplied with reticulated water and sewerage. Floor space ratios will not apply (as is currently the case). The Planning Proposal would supply about 100 rural residential lots to the market if developed.

The land has not been subject to a comprehensive range of studies and reports that would normally be required to support a planning proposal that is inconsistent with current Council and state government planning strategies. If the matter were to proceed, then (extensive) further studies would be required.

The Planning Proposal is not consistent with relevant SEPPs. It is not consistent with a number of the relevant s117 Directions. Where inconsistencies occur, they have not been justified.

The Planning Proposal is not consistent with the Byron Rural Settlement Strategy 1998 or the Far North Coast Regional Strategy. It is not consistent with the draft Byron Rural Land Use Strategy or the draft North Coast Regional Plan.

It proposes a significant new rural residential release area which pre-empts the completion of Council's strategic planning process currently under way (i.e. preparation of the draft Byron Rural Land Use Strategy).

There is insufficient information to enable Council to support an amended Planning Proposal and it is recommended that Council not proceed with this Planning Proposal.

Council staff advised the applicant that it would not support the planning proposal due to its inconsistencies with both Council and state government planning strategies, by letter dated 20 May 2016. Council staff attended a site inspection with the applicant on 14 June 2016 where the inconsistencies were further discussed. Staff recommended that the Planning Proposal be withdrawn but the applicant has requested that it be reported to Council for determination.

**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.

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**RECOMMENDATION:****That Council:**

- a) **Consider the planning proposal from Ardill Payne and Partners on behalf of Tyagarah Holdings P/L to rezone approximately 21 hectares of RU2 Rural Landscape (and Deferred Matter) zoned land to R5 Large Lot Residential (Attachment 1 E2016/54224));**
- b) **Not proceed with this planning proposal to amend Byron LEP 2014 (or Byron LEP 1988) for the reasons outlined in this report and notify the applicant of its decision;**
- c) **Request the Minister for Planning to determine that the matter not proceed.**

**Attachments:**

5

- 1 Applicant's Planning Proposal, E2016/54224
- 2 Special disclosure of pecuniary interest form, E2012/2815

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## Report

### The Planning Proposal

- 5 This Planning Proposal relates to land located at Buckleys Road (off Grays Lane), Tyagarah. The land involved is described as Lots 1 and 2 DP 1126204 and Lot 7 DP 573269. The land is traversed by two unmade roads that are not listed as subject to the Planning Proposal. The combined area of the three lots is approximately 90 hectares. Approximately 21 hectares is proposed to be zoned R5 Large Lot Residential in this Planning Proposal, which the applicant suggests will yield approximately 100 lots with a minimum lot size of 2000m<sup>2</sup>. The balance of the zones within the subject land will not change.
- 10

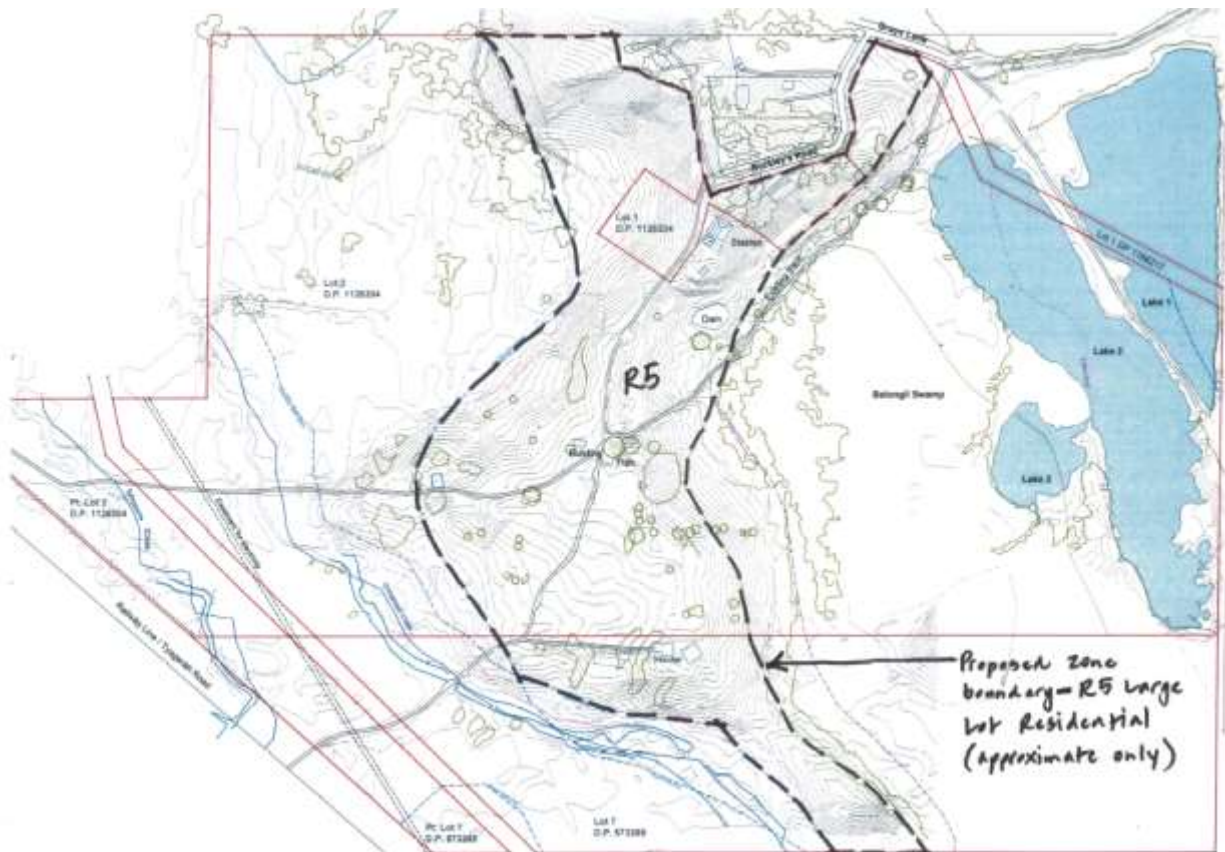


**Figure 1: Subject Land**

- 15 The applicant submitted a Planning Proposal (Attachment 1) seeking to:
- rezone approximately 21 hectares of the subject land to R5 Large Lot Residential; and
  - apply a Minimum Lot Size (MLS) of 2000 square metres to the R5 zone.
- 20 The applicant has also suggested (but not supplied) a voluntary planning agreement (VPA) between the land owners and the Council, which would be exhibited with the Planning Proposal, if supported. The VPA would dedicate all SEPP 14 land on the site to a public authority (to be agreed); extend a sewer main to service the subject land and nearby land to the north; upgrade low-lying sections of Grays Lane to avoid flood inundation and seal the remainder of the road;
- 25 surrender all existing consents that apply to the subject land; and dedicate a water body (an ex-sand quarry) to a public authority (to be agreed).

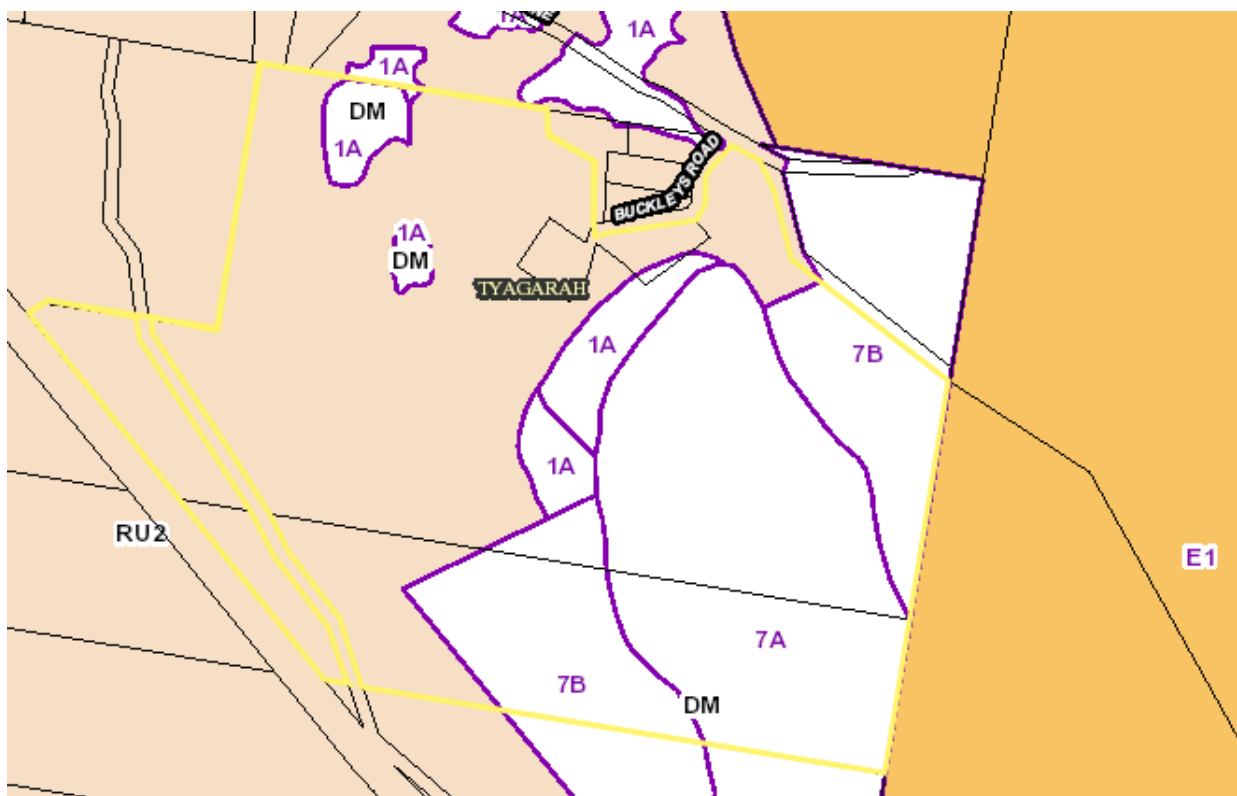
The applicant considers the Planning Proposal is needed because it will:

- 30
- provide additional land for rural residential development;
  - increase housing choice and stimulate economic development from housing construction;
  - eliminate a high impact tourist development approval that would likely adversely impact on surrounding natural areas;
  - lead to public benefits if the VPA is implemented.



**Figure 2: Proposed Zoning Plan** - approximate extent of the proposed R5 Large Lot Residential zone (shown as black dashed line) within the subject site (lot boundaries are shown in red)

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**Figure 3: Current Zoning under Byron LEP 2014 and LEP 1988 (Combined Zoning Map)**

Current Zones and Controls

The subject land is zoned part RU2 Rural Landscape and part Deferred Matter under Byron LEP 2014. The Deferred Matter land remains zoned 1(a) General Rural, 7(a) Wetlands and 7(b) Coastal Habitat, under Byron LEP 1988. The Minimum Lot Size for the RU2 zone is 40 hectares.

- 5 No Floor Space ratio (FSR) currently applies to the RU2 zoned land. The Minimum Lot Size (MLS) for the 1(a), 7(a) and 7(b) zones is also 40 hectares.

Key Issues

- 10
  - Amending Byron LEP 1988
  - Byron Rural Settlement Strategy 1998
  - Draft Byron Rural Lands Strategy 2016
  - Far North Coast Regional Strategy
  - Draft North Coast Regional Plan
  - NSW Settlement Planning Guidelines
- 15
  - Vegetation
  - Steep land
  - Flood prone land
  - Regional farmland
  - State policy and planning controls
- 20

**Amending Byron LEP 1988**

Part of the site remains subject to Byron LEP 1988 because of a decision by the state government to defer some areas from Byron LEP 2014 and not include any E2, E3 or E4 zones in the new LEP. The Department has indicated in discussion with staff regarding previous planning proposals that it is not going to permit further amendments to Byron LEP 1988 on a “piece meal” basis. The small area of Deferred Matter cannot be amended by this Planning Proposal as it is not subject to Byron LEP 2014. It can only be amended by also amending Byron LEP 1988. It is not practicable that this be done as part of this Planning Proposal.

**Byron Rural Settlement Strategy 1998**

This strategy remains the current and relevant rural residential strategy adopted by Council and approved by the state government. It assessed in detail land throughout Byron Shire, including the Tyagarah area. The subject land was identified on Map 21 as including some land that contains minimal physical or ecological constraints (based on 1998 constraint mapping). However, it is not identified for rural land sharing or community title development on Maps 2 or 23. It was identified on Map 9 of the strategy as having potential for rural tourist cabins. It has obtained a number of approvals to date for cabins and rural tourism-related uses. The applicant documents the existing consents in their Planning Proposal.

The request to permit small lot subdivision on the site is a request for rural residential development for land that is not in the Byron Rural Settlement Strategy 1988 rural land release program.

On this basis, the proposal to rezone the land to permit small lot subdivision is not consistent with the Byron Rural Settlement Strategy 1998.

**Draft Byron Shire Rural Land Use Strategy 2016**

The draft Byron Shire Rural Land Use Strategy was exhibited during April and May 2016. It has not been adopted in its final form by Council and has not been agreed to by the Department of Planning and Environment (as required by both the Far North Coast Regional Strategy and the draft North Coast Regional Plan). As it has been exhibited, it is worthwhile to examine if the subject land is consistent with the draft Byron Shire Rural Land Use Strategy.

The focus of the draft Strategy (page 5 of the draft) is:

*“on enabling future rural lifestyle living opportunities in areas that are relatively unconstrained from development, have a strong potential to build on and strengthen existing communities and have*

*reasonable access to major town services. Such opportunities can only be realised in locations where an acceptable standard of road infrastructure can be provided at no cost to the wider community."*

5 The draft Strategy states on page 30 that:

*"new large lot residential subdivision opportunities only in areas:*

- *identified on Maps 4, 4a and 4b (refer to Section 4 'Land Release Program') and/or that can satisfy the decision framework outlined in Figure 4;*
- *not adopted within an approved urban land release strategy for urban development, or not identified for future village development in this strategy (as identified in Maps 5, 5a and 5b - refer to Section 4 'Land Release Program'); and*
- *where an acceptable standard of road infrastructure can be provided at no cost to the wider community."*

15 The subject land is not identified on Maps 4, 4a or 4b so it could only be regarded as consistent with the draft Strategy if it meets the decision framework in Figure 4 and is located where an acceptable standard of road can be provided at no cost to the wider community.

20 The draft Strategy is based on four key themes by which land is assessed as being potentially suitable for rural residential development:

1. Our Rural Environment
2. Our Rural Economy
3. Our Rural Community
- 25 4. Our Rural Infrastructure

Based on the work Council has undertaken, a decision framework (figure 4 on page 34 of the draft) can be used as a guide as to whether land is suitable for rural residential development.

30 Typically, land east of the Pacific Highway is not suitable unless it meets the objectives/criteria of the draft Strategy, and the relevant criteria of the North Coast Regional Plan and the NSW Settlement Planning Guidelines. (The latter two documents are discussed later in this report.)

35 The **Rural Environment** objectives/criteria of the draft Strategy provide a basis for assessing a potential site for rural residential suitability based on its physical characteristics. In this case, the applicant has undertaken a site characteristics assessment that was based on Council's GIS data and only considered acid sulfate soils, terrestrial biodiversity, flooding, waterways and bushfire hazard. It did not include a slope analysis (even though the land contains some steep areas), did not include a site-specific ecological assessment of the land, and did not include an Aboriginal archaeological assessment. It also disregards the mapping of much of the site as regionally significant farmland, and does not acknowledge that the southern part of the site is subject to a buffer area for an unexploited sand resource (identified on s117 maps).

45 On this basis, the subject land does not meet the Rural Environment criteria for inclusion in the draft Strategy.

45 The **Rural Economy** objectives/criteria of the draft Strategy provide a basis for assessing a potential site for rural residential suitability based on its rural economic characteristics, including agriculture and tourism. In this case, the applicant has included a large area of regionally significant farmland that is contiguous with other areas (not isolated). They have not provided a detailed evaluation of the site against the Interim Variation Criteria in the draft North Coast Regional Plan. They have not provided an agricultural assessment of the land to support their conclusion that the land is marginal (it is currently used for grazing). They do not acknowledge that the adjacent land is used for sugar cane production and do not provide a land use conflict risk assessment. The applicant acknowledges that the site has multiple rural tourism consents, but fails to consider how these would contribute to the economy if activated as an alternative to the proposed rural residential development.



On this basis, the subject land does not meet the Rural Economy criteria for inclusion in the draft Strategy.

- 5 The **Rural Community** objectives/criteria of the draft Strategy provide a basis for assessing a potential site for rural residential suitability based on retaining the “rural” in the landscape when considering future rural housing opportunities. It also includes identifying future rural lifestyle opportunities where people can connect with the surrounding farmland and natural areas, and that support and strengthen our rural villages. A key factor in these criteria is the 2 kilometre and
- 10 5 kilometre service catchments identified on Map 1 (page 24 of the draft). The subject land is not located within any of the 16 urban and village catchments in the Shire. It is located in proximity to the community title land sharing developments north of Grays Lane (about 30 dwellings), but will be about three times larger in dwelling yield than this area. It does not “build” on any existing
- 15 zoned R5 Large Lot Residential land. The closest community service focal point is the Tyagarah service station and shop located about 3.5 kilometres to the north. The nearest school is about 8 kilometres away, and the site is 7 kilometres away from the new Byron central hospital.

On this basis, the subject land does not meet the Rural Community criteria for inclusion in the draft Strategy.

- 20 The **Rural Infrastructure** objectives/criteria of the draft Strategy provide a basis for assessing a potential site for rural residential suitability in terms of infrastructure, including roads, water, electricity, waste minimisation, and community infrastructure such as halls. In this case, the applicant suggests that reticulated water and sewerage will be supplied to the lots, and that the
- 25 applicant will upgrade Grays Lane to provide flood-free access to the Pacific Highway. Details are not supplied on any infrastructure issue; however the applicant offers a voluntary planning agreement to undertake the works at their own cost. This would include installing a 3 kilometre (approximately) sewer pipeline via the disused rail corridor to the West Byron STP. The cost and practicality of this, and upgrading Grays Lane and supplying reticulated water from the Rous main
- 30 that traverses the site, have not been assessed in the application. Council also needs to be clear that it would be supplying urban infrastructure (water and sewerage) to a rural residential land use. This in itself is inconsistent with the concept of rural residents being self-sufficient and Council supplying scarce infrastructure cost effectively to sites without cost to the wider community.

- 35 On this basis, the subject land does not meet the Rural Infrastructure criteria for inclusion in the draft Strategy.

A report on the draft Rural Land Use Strategy (RLUS) is also being considered at this meeting. If Council resolves to make amendments to the draft RLUS, the above assessment may change.

- 40 **Far North Coast Regional Strategy (FNCRS)**  
The FNCRS specifically states (on page 28) that rural residential development will be located close to existing centres (this site is not within the 2 kilometres or 5 kilometres radius that Council uses), and avoid significant environmental and landscape value areas as well as natural resource land.
- 45 In this case, the environmental and landscape assessment has been minimal, and the subject land is affected partly by a buffer to a significant sand resource and substantially by regionally significant farm land. The FNCRS is clear that for land east of the Pacific Highway, only that land in an approved land release strategy will be rezoned. The subject land is east of the Pacific Highway and is not included in the Byron Rural Settlement Strategy 1998.

- 50 On this basis, the subject land is not consistent with the FNCRS.

#### **Draft North Coast Regional Plan**

- 55 The draft North Coast Regional Plan was exhibited recently (closed on 2 June 2016) and will, in due course, replace the FNCRS. However, it has no statutory basis at this time, and is considered

here primarily because it is referenced in the draft Byron Shire Rural Land Use Strategy. The draft North Coast Regional Plan states (on page 50) that land will only be zoned for future rural residential development if it is consistent with a strategy agreed between Council and the Department of Planning and Environment **and** consistent with the Settlement Planning Guidelines.

5 As discussed above, the subject land is not consistent with the Byron Rural Settlement Strategy 1998, which is the only agreed rural residential strategy that applies to Byron Shire. Consistency with the Settlement Planning Guidelines is discussed below.

10 On this basis, the subject land is not consistent with the draft North Coast Regional Plan.

**NSW Settlement Planning Guidelines**

The NSW Settlement Planning Guidelines were prepared by the State government to guide councils in preparing Growth Management Strategies that may include a rural settlement component. In the context of the draft North Coast Regional Plan (page 50), DPE lists six issues that should guide councils in planning for rural residential development. The following is an assessment of the subject land against these six issues:

Avoiding areas prone to natural hazards including bushfire and flood	The 21 ha nominated as the developable land in this Planning Proposal is mostly above the flood planning level and is mostly not bushfire prone land. It is affected by bushfire buffers. The main access (Grays Lane) is regularly affected by flooding in a number of locations. The applicant has suggested this can be raised to a flood-free status and sealed, but has not indicated how this may affect the floodplain or other properties, and has not supplied any cost estimates to show that it is plausible in the context of this development.
Avoiding areas of high environmental value and Aboriginal and heritage significance	The areas known by Council to be of high conservation significance (e.g. the SEPP 14 wetlands) have been excluded from the developable land. However, no site-specific ecological assessment has been undertaken, so there is no assessment of the remnant trees and scattered vegetation on the site; no assessment of the accuracy of the wetland mapping; and no assessment of the grassland (eg for Hairy Joint Grass). It is not appropriate to defer this to a later stage given that this site is not identified by Council in an agreed strategy. There has also been no assessment of Aboriginal cultural heritage and no indication of liaison with the LALC or local Aboriginal community. It is not appropriate to defer this to a later stage given that this site is not identified by Council in an agreed strategy.
Potential impacts on and land use risks to agricultural activities and productive natural resources	The subject land is substantially contiguous regionally significant farmland, which will be lost from production if the Planning Proposal proceeds. This loss has not been properly justified. The location of the proposed rural residential lots in proximity to grazing land and/or sugar production land has not been adequately addressed. Deferring a land use



	<p>conflict risk assessment to a later stage is not appropriate.</p> <p>Part of the subject land is also subject to a buffer around a potential sand resource identified by the State government. The potential for this resource to be sterilised has not been properly considered.</p> <p>There has been no preliminary analysis of the subject land for potential contamination from past use, other than the statement that it does not contain a dip site. It is not appropriate to defer this to a later stage given that this site is not identified by Council in an agreed strategy.</p>
Proximity and access to employment and higher order services in the region	The subject land is located outside Council's preferred local 2 km and 5 km catchment areas. It has good access to higher order services via the Pacific Highway, but RMS has not been consulted about the traffic from this Planning Proposal accessing the Pacific Highway at Grays Lane.
The location of water catchments and impacts on water quality or supply	If the proposed development is to have reticulated water and sewer then stormwater controls will be the key water quality issue with future development. This can be dealt with through water sensitive design controls.
The existing demand and supply of rural residential lots in the area including neighbouring LGAs	The draft Byron Rural Land Use Strategy (as exhibited) identifies potential new rural residential lots (page 30 of the draft) in existing zoned land that could become available for rural settlement and, in addition, maps priority localities for potential new large lot residential land release. The applicant has not justified why the subject land should be rezoned now and/or ahead of the other priority locations.

On this basis, the subject land is not consistent with the NSW Settlement Planning Guidelines.

**Vegetation**

- 5 A site-specific flora and fauna assessment has not been undertaken. There is no assessment of the remnant trees and scattered vegetation on the site; no assessment of the accuracy of the wetland mapping; and no assessment of the grassland (e.g. for Hairy Joint Grass). It is not appropriate to defer this to a later stage given that this site is not identified by Council in an agreed strategy.

10

**Steep Land**

- 15 The majority of the site that is proposed to be included in a R5 Large Lot Residential zone is not steep land. However, it does contain small areas (near Buckleys Road) that may be greater than 20% slope. This land is not impossible to develop for rural residential purposes but can create problems with infrastructure such as roads and pipelines. It can also lead to excessive cut and fill to create house sites. In some circumstances it may be more prone to land slip, however slope alone is not the only factor that leads to landslips. No site-based slope analysis or geotechnical assessment has been undertaken for the constraints analysis. It is not appropriate to defer this to a later stage given that this site is not identified by Council in an agreed strategy.

### Flood Prone Land

The subject land is partly flood prone and Council mapping has been used in the constraints assessment to identify land affected by the “1 in 100 year flood event”. The part of the site that is proposed to be included in a R5 Large Lot Residential zone is indicated as not flood affected, although this has not been established with site-based survey. The key issue is that, on a regular basis, the site is entirely cut off by flooding in several places along Grays Lane. The applicant suggests that Grays Lane can be raised to a flood-free status but has not indicated how this may affect the floodplain or other properties (or the Pacific Highway), and has not supplied any cost estimates to show that it is plausible in the context of this development. Inclusion of major works on a Council road as part of a VPA based on minimal information is not prudent.

On this basis, the issue of flooding is not resolved satisfactorily.

### Regional Farmland

The majority of the site that is proposed to be included in a R5 Large Lot Residential zone is identified as regionally significant farmland in the Northern Rivers Farmland Protection Project, as shown in the shaded brown area below.



The impact on farmland will be that approximately 21 hectares will be lost from future production directly. There will also be the potential for increased land use conflicts where the proposed R5 land adjoins land that may be used for cattle or sugar cane production at any time in the future. This may diminish the production value of adjacent land. The Planning Proposal does not make any objective assessment of the agricultural values of the land, suggesting it “does not contain suitable topography or soil type”. However, no evidence is provided to support this assertion. In relation to using regionally significant farmland for rural residential development, the Northern Rivers Farmland Protection Project states (page 27):

*“Regionally significant farmland **cannot be considered for rural residential rezoning**. The only exception is where the land is identified in a council rural settlement strategy which has been agreed to between December 1994 and December 2004 under clause 20 of the North Coast Regional Environmental Plan (or placed on public exhibition by the end of 2004 and subsequently approved). Councils when preparing new rural residential settlement strategies cannot consider regionally significant farmland for inclusion.”*

On this basis, the subject land is not consistent with the NSW State government position on regional farmland.

**State Policy and Planning Controls**

- 5 The Planning Proposal is generally consistent with the applicable State Environmental Planning Policies. However, it is inconsistent with *SEPP 55 Remediation of Land* and *SEPP (Rural Lands) 2008*. The inconsistencies are as follows:

<b>State Environmental Planning Policy (SEPP)</b>	<b>Compliance of Planning Proposal</b>
SEPP 55 – Remediation of Land	A Preliminary Contamination Report has not been prepared for the subject land. It is agreed that there is no recorded dip site on the land, but no other information on land contamination is supplied. Without this information, Council is not able to decide if the land is contaminated from past use (and if it is contaminated, whether it can be remediated). The Planning Proposal is inconsistent with this SEPP and as the land is not within an agreed strategy, it is not appropriate that such work be deferred until after the Gateway Determination.
SEPP (Rural Lands) 2008	<p><i>The aims of this Policy are as follows:</i></p> <ul style="list-style-type: none"> <li><i>(a) orderly and economic use and development of rural lands,</i></li> <li><i>(b) regard to Rural Planning Principles and the Rural Subdivision Principles,</i></li> <li><i>(c) to implement measures designed to reduce land use conflicts,</i></li> <li><i>(d) to identify State significant agricultural land,</i></li> <li><i>(e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.</i></li> </ul> <p>No State significant agricultural land occurs on the subject land. The Planning Proposal intends to create a new rural residential area that will change both rural lot size and rural dwelling permissibility. The Planning Proposal could have a significant impact on surrounding rural land. The Planning Proposal is inconsistent with this SEPP. Further detail is provided below under s117 Direction 1.5.</p>

- 10 The Planning Proposal raises issues in relation to ten s117 Directions. It is inconsistent with seven of these directions as follows:

<b>S117 Direction</b>	<b>Application</b>	<b>Relevance to this Planning Proposal</b>	<b>Consistency with Direction</b>
1.2 Rural Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). Under this direction a planning proposal must:	<p>If the Planning Proposal were supported, approximately 21 hectares of the RU2 Rural Landscape (and Deferred Matter) land would change to R5 Large Lot Residential zone. This is clearly inconsistent with the objective of this direction to protect the agricultural production value of rural land.</p> <p>The applicant states that the Planning Proposal is consistent because it</p>	Not Consistent

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with Direction
	<p>(a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone</p> <p>(b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).</p>	<p>complies with the draft Byron Rural Land Use Strategy. There is no basis for this conclusion, as explained earlier in this report.</p> <p>The draft Byron Rural Land Use Strategy does not identify the land which is the subject of this Planning Proposal and has not been approved by the Director of the Department of Planning and Environment.</p> <p>The Planning Proposal has not been justified by a study prepared in support of it which gives consideration to the objectives of this direction.</p> <p>The Planning Proposal is not in accordance with the relevant Regional Strategy (the FNCRS), prepared by the Department of Planning and Environment, which gives consideration to the objective of this direction.</p> <p>This Planning Proposal is not of minor significance.</p> <p>The inconsistency has not been justified.</p>	
1.3 Mining, Petroleum Production and Extractive Industries	<p>Applies when a relevant planning authority prepares a planning proposal that would have the effect of:</p> <p>(a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or</p> <p>(b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.</p>	<p>Rezoning an area of RU2 zoned land to R5 will prevent the use of that part of the land for mining or extractive industry. State government resource mapping shows that there is a significant unexploited sand resource located south of the subject land. The buffer to this extends into the 21 ha identified by the applicant as proposed rural residential land.</p> <p>The Planning Proposal would be incompatible with any future extraction of this resource.</p>	Not Consistent

<b>S117 Direction</b>	<b>Application</b>	<b>Relevance to this Planning Proposal</b>	<b>Consistency with Direction</b>
1.4 Oyster Aquaculture	Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in: (a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”, or (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses.	Priority Oyster Aquaculture Areas (POAA) exist in the Brunswick River, however there is minimal likelihood that this Planning Proposal will have adverse impacts on them if stormwater is dealt with appropriately (should the development proceed).	Consistent
1.5 Rural Lands	Applies when: (a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary), or  (b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.  A planning proposal to which clauses (a) and (b) apply must be consistent with the Rural Planning Principles listed in <i>State Environmental Planning</i>	<p>This Planning Proposal will affect land zoned mostly RU2 and partly “deferred matter” under LEP 2014. It proposes to rezone approximately 21 ha to R5 and alter the minimum lot size for the subject land from 40 ha to approximately 0.2 ha.</p> <p>It is inconsistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i> as follows:</p> <p>(a) <i>the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas</i> – removing 21 ha of agricultural land from production will reduce the opportunity for farming on or adjacent to the land. It will also reduce the likelihood of extractive industry on the adjacent resource.</p> <p>(b) <i>recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State</i> – the planning proposal will directly affect regionally significant agricultural land that is currently used for beef cattle grazing.</p>	Not Consistent

<b>S117 Direction</b>	<b>Application</b>	<b>Relevance to this Planning Proposal</b>	<b>Consistency with Direction</b>
	<p><i>Policy (Rural Lands) 2008.</i></p> <p>A planning proposal to which clause (b) applies must be consistent with the Rural Subdivision Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.</p>	<p><i>(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development – the Planning Proposal will take place on land that has for some time been earmarked for rural tourism including a range of development approvals for cabin development, restaurant, and a camping ground. These will be lost to rural residential development if it proceeds.</i></p> <p><i>(d) in planning for rural lands, to balance the social, economic and environmental interests of the community – there is insufficient information to gauge the social, economic and environmental impacts of this Planning Proposal, both on and off the subject land.</i></p> <p><i>(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land – the Planning Proposal does not include an assessment of the remnant trees and scattered vegetation on the site. There is no assessment of the accuracy of the wetland mapping and no assessment of the grassland (eg for Hairy Joint Grass). There is no slope analysis and no site-specific land contamination assessment.</i></p> <p><i>(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities – the subject land is not located within any of the 16 urban and village catchments identified by Council in the Shire. It does not relate directly to the community title land sharing developments north of Grays Lane. It is unlikely to contribute to the economic welfare of an identified rural community.</i></p> <p><i>(g) the consideration of impacts on</i></p>	

<b>S117 Direction</b>	<b>Application</b>	<b>Relevance to this Planning Proposal</b>	<b>Consistency with Direction</b>
		<p><i>services and infrastructure and appropriate location when providing for rural housing – the applicant is suggesting that reticulated water and sewerage be supplied to about one hundred 0.2 ha lots serviced by a sealed, flood-free access road. There is insufficient detail to justify this level of services for low density rural housing in this location. There is no assessment of the cost and practicality of supplying this level of services to this location. There is no consideration as to whether this is the best use of resources.</i></p> <p><i>(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General – the Far North Coast Regional Strategy applies to Byron Shire and this Planning Proposal is not consistent with it. It is also inconsistent with the Byron Rural Settlement Strategy 1998. It is also inconsistent with the draft Byron Shire Rural Lands Strategy and the draft North Coast Regional Plan.</i></p> <p>The Planning Proposal is inconsistent with the Rural Subdivision Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i> as follows:</p> <p><i>(a) the minimisation of rural land fragmentation – the existing 90 ha rural property is proposed to be subdivided into 100 small lots and a residue. This is inconsistent with this principle.</i></p> <p><i>(b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses – the proposed small lots will be in proximity to a range of existing and potential rural land uses including grazing, sugar production or extractive industries. The potential for rural land use conflicts will be significant if this land is used for rural residential development.</i></p> <p><i>(c) the consideration of the nature of existing agricultural holdings and the</i></p>	

<b>S117 Direction</b>	<b>Application</b>	<b>Relevance to this Planning Proposal</b>	<b>Consistency with Direction</b>
		<p><i>existing and planned future supply of rural residential land when considering lot sizes for rural lands – the use of this land for rural residential purposes is not consistent with the planned future supply of such land in Byron Shire.</i></p> <p><i>(d) the consideration of the natural and physical constraints and opportunities of land – a constraints analysis has been supplied, however there is insufficient information to be certain that the proposed rural residential development has been located in response to the constraints and opportunities of the land.</i></p> <p><i>(e) ensuring that planning for dwelling opportunities takes account of those constraints – there is insufficient information to be certain that the proposed rural residential development will take account of all of the potential site constraints.</i></p>	
2.1 Environment Protection Zones	<p>A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land).</p> <p>This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in</p>	<p>Part of the 21 ha proposed for inclusion in the R5 zone in this Planning Proposal is currently zoned 7(b) Coastal Habitat under LEP 1988.</p> <p>The applicant states that the Planning Proposal is consistent because the SEPP 14 wetlands on the site will be protected by future E zones when they are introduced into Byron LEP 2014. There is minimal ecological consideration of the area currently zoned 7(b) Coastal Habitat. The applicant has decided that it is a mapping error.</p> <p>The Planning Proposal has not been justified by a study prepared in support of it which gives consideration to the objectives of this direction.</p> <p>The Planning Proposal is not in accordance with the relevant Regional Strategy (the FNCRS), prepared by the Department of Planning, which gives consideration to the objective of this direction.</p> <p>The Planning Proposal is not of minor</p>	Not Consistent



# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

13.9

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with Direction
	accordance with clause (5) of Direction 1.5 <i>"Rural Lands"</i> .	significance. The inconsistency has not been justified.	
4.1 Acid Sulfate Soils	<p>Applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.</p> <p>A council shall not prepare a draft LEP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the council has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.</p>	<p>The 21 ha suggested for inclusion in the R5 zone generally avoids the areas mapped as likely to contain acid sulfate soils.</p> <p>Some land to which this Planning Proposal will apply may be affected by acid sulfate soils. Council will consider acid sulfate soils if it receives an application in this location for any intensive land use (such as rural housing) in accordance with existing clause 6.1 of Byron LEP 2014.</p>	Consistent
4.3 Flood Prone Land	<p>Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.</p> <p>A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on</i></p>	<p>The 21 ha suggested for inclusion in the R5 zone generally avoids the areas mapped by Council as flood prone land.</p> <p>No assessment has been made of the flood affected Grays Lane, which is the main access to the subject land.</p> <p>Should any development in flood prone areas be contemplated, the provisions of existing clause 6.3 of Byron LEP 2014 will apply at development stage.</p>	Consistent

S117 Direction	Application	Relevance to this Planning Proposal	Consistency with Direction
	<p><i>Development Controls on Low Flood Risk Areas).</i></p> <p>A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environment Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</p> <p>A planning proposal must not contain provisions that apply to the flood planning areas which:</p> <p>(a) permit development in floodway areas,</p> <p>(b) permit development that will result in significant flood impacts to other properties,</p> <p>(c) permit a significant increase in the development of that land,</p> <p>(d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or</p> <p>(e) permit development to be carried out without development consent except for the purposes of agriculture (not</p>		

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S117 Direction	Application	Relevance to this Planning Proposal	Consistency with Direction
	<p>including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.</p> <p>A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p>		
4.4 Planning for Bushfire Protection	<p>Direction applies to a planning proposal on land mapped as bushfire prone land.</p> <p>Council must consult with the NSW Rural Fire Service.</p> <p>Council must have regard to <i>Planning for Bushfire Protection 2006</i>.</p> <p>Must introduce controls that avoid placing inappropriate development in hazardous areas.</p>	<p>The Planning Proposal does not include a bushfire assessment of the subject land. Council's 2008 bushfire prone land mapping has been used to identify hazard areas and buffers, but there is no evidence of ground-truthing this information. In the absence of site-specific information, it should be assumed that the Planning Proposal is not compliant with this Direction.</p>	Not Consistent
5.1 Implementation of Regional Strategies	<p>Planning proposals must be consistent with a regional strategy released by the Minister for Planning.</p>	<p>The Planning Proposal is inconsistent with a key aspect of the Far North Coast Regional Strategy (FNCRS).</p> <p>Pages 28 and 30 of the FNCRS state</p>	Not Consistent

<b>S117 Direction</b>	<b>Application</b>	<b>Relevance to this Planning Proposal</b>	<b>Consistency with Direction</b>
		that “no further rezoning for rural residential development (other than land in an approved land release strategy) will be permitted in the Coastal Area”. The Coastal Area is defined as that land east of the Pacific Highway and includes the subject land. The subject land is not identified in the Byron Rural Settlement Strategy 1998. This remains as the only agreed rural residential strategy for Byron Shire.	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	The planning proposal must not rezone land mapped as State or regionally significant farmland under the Northern Rivers Farmland Protection Project for urban or rural residential use.	<p>Most of the 21 ha suggested for inclusion in the R5 zone is identified as regionally significant farmland under the Northern Rivers Farmland Protection Project and sits outside any of the identified “town and village growth boundary” areas of the FNCRS.</p> <p><i>The [relevant] objectives of this Direction are:</i></p> <p>(a) <i>to ensure that the best agricultural land will be available for current and future generations to grow food and fibre,</i></p> <p>(c) <i>to reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.</i></p> <p>This Planning Proposal does not meet the above objectives because it will use regionally significant farmland for rural residential development and will increase the potential for land use conflict with remaining agricultural land use in the locality.</p>	Not Consistent

The applicant has failed to address the inconsistency with the following section 117 Directions:

- Direction    1.2 – Rural Zones  
                   1.3 – Mining, Petroleum Production and Extractive Industries  
                   1.5 – Rural Lands  
 5                2.1 – Environment Protection Zones  
                   4.4 – Planning for Bushfire Protection  
                   5.1 – Implementation of Regional Strategies  
                   5.3 – Farmland of State and Regional Significance on the NSW Far North Coast.

- 10            It is not appropriate that the inconsistencies be addressed post-Gateway Determination. The inconsistencies are sufficient to warrant that the Planning Proposal be refused.

Council staff initially advised the applicant that it would not support the planning proposal due to the inconsistencies with both Council and state government planning strategies, by letter dated 20 May 2016. Council staff also attended a site inspection with the applicant on 14 June 2016 where the inconsistencies were discussed. Staff recommended that the Planning Proposal be withdrawn but the applicant has requested that it be reported to Council for determination.

**Options to Move Forward**

There are a number of options open to Council on this matter:

1. Proceed to a Gateway Determination with the proponent's Planning Proposal (Attachment 1)
2. Proceed to a Gateway Determination with an amended Planning Proposal
3. Not proceed with the Planning Proposal.

**Conclusion**

The Planning Proposal attached to this report which has been prepared by the applicant, is not suitably supported by studies or other relevant information. It is inconsistent with a range of State and Council strategies and policies, and therefore does not have sufficient planning merit to be supported.

It is recommended that Council not proceed with this Planning Proposal to amend Byron LEP 2014 (and Byron LEP 1988) to apply the R5 Large Lot Residential zone over approximately 21 hectares of land at Tyagarah.

**Financial Implications**

If Council chooses to proceed with the Planning Proposal, it is able to fully 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 Council chooses not to proceed then the matter does not incur any additional costs.

**Statutory and Policy Compliance Implications**

The relevant policy considerations are addressed in this report.

**Report No. 13.10      PLANNING - Section 96 application 10.2014.230.2 to amend conditions of approval relating to operation of a Rural Tourist Facility (wedding centre) at 440 Bangalow Road Talofa**

**Directorate:** Sustainable Environment and Economy

**Report Author:** Rob Van Iersel, Consultant Planner  
Shannon Burt, Director Sustainable Environment and Economy

**File No:** I2016/748

**Theme:** Ecology  
Development and Approvals

**Proposal:**

**Proposed modification:** S96 to Modify Conditions 41(f), 42, 43 and 45 relating to the Operation of the Rural Tourist Facility

**Original Development:** Alteration/Additions to existing dwelling and use as a rural tourist facility for the purposes of holding weddings and providing holiday accommodation for up to 12 occupants

**Type of S.96 sought:** S96(2) Other modification

**Property description:** LOT: 2 DP: 1071115  
440 Bangalow Road TALOFA

**Parcel No/s:** 239328

**Applicant:** Newton Denny Chapelle

**Owner:** Bandora Holdings Pty Ltd

**Zoning:** Zone No. RU2 Rural Landscape

**S96 date received:** 15 March 2016

**Original DA determination date:** 13 October 2014

**Integrated Development:** No

**Public notification or exhibition:**

- Level 1 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications
- Exhibition period: 30 March 2016 to 12 April 2016
- Submissions: For 0 Against 4

**Issues:**

- Acoustic impacts (noise and disturbance)

**Summary:**

The existing development consent allows the use of an existing dwelling for a maximum of 26 weddings per year, with on-site accommodation for a maximum of 12 guests. Conditions apply limiting the maximum number of marque and in house weddings, and establishing the maximum monthly frequency of the events.

The current application seeks to modify the development consent by amending four conditions of the approval, as follows:

- Condition 41(f) – modify such that private fireworks would not be permitted under any circumstances;
- Condition 42 – modify the approved frequency of weddings – existing condition includes a limitation of a total of 3 weddings per calendar month – proposed to change to limit of 2 weddings per month for 7 months of the year (January, February, June, July, August, November and December); with 4 weddings per calendar month for the months of March, April, May, September and October (no change proposed to total number of weddings allowed per year);

- Condition 43 – modify the finishing times for weddings, to have all amplified music finishing at 10pm; all amplified announcements within the marquee finishing at 9.30pm; and all guests to have left the site by 10.30pm; and

5 Condition 45 – modify the condition so that marquees are removed from site the first working day after the wedding, rather than the day immediately after the wedding.

**NOTE TO COUNCILLORS:**

10 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  
15 been called by the mover and seconder of all motions relating to this report.

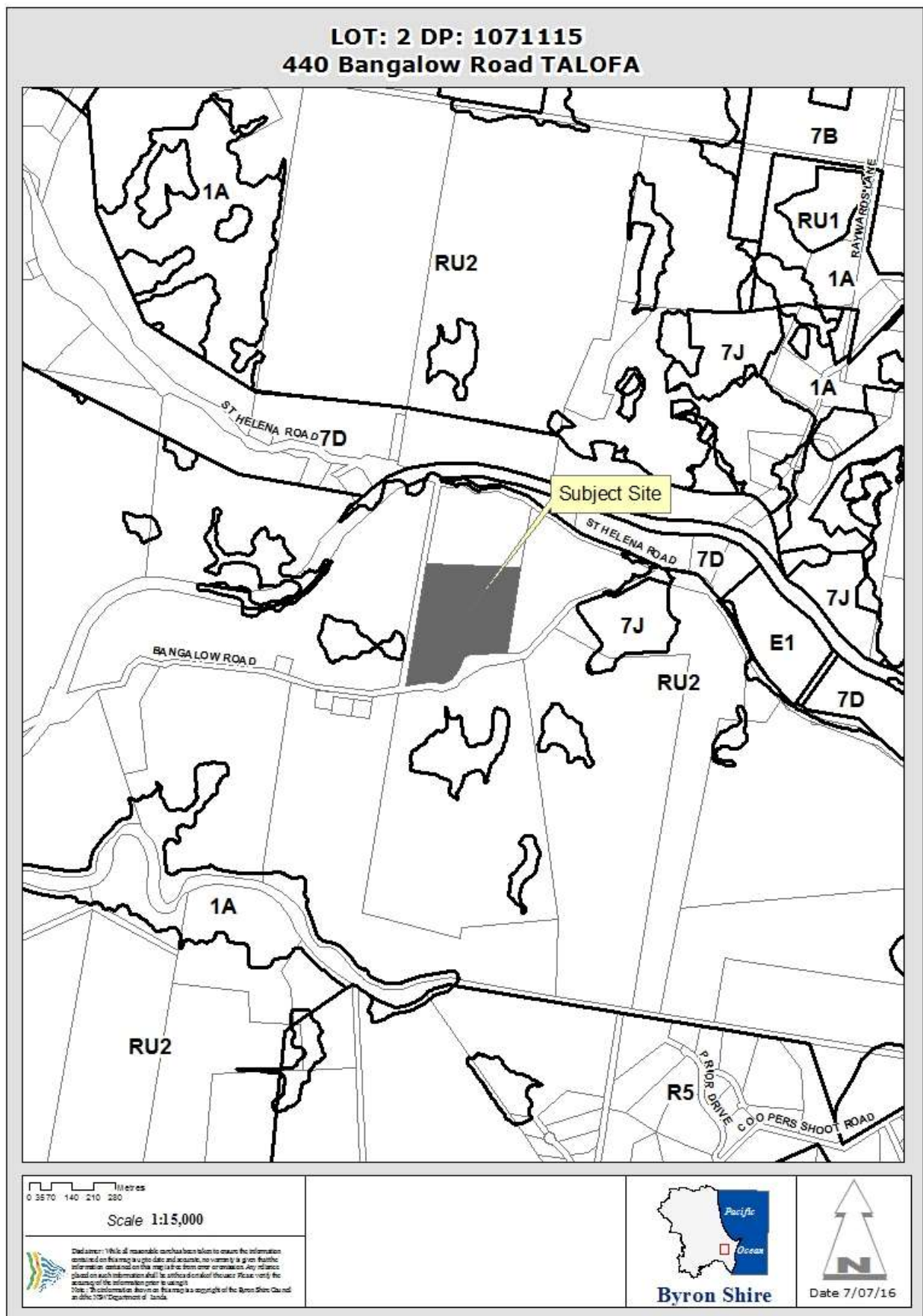
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**RECOMMENDATION:**

**That pursuant to Section 96 of the Environmental Planning & Assessment Act 1979, application no. 10.2014.230.2 to modify Conditions 41(f), 42, 43 and 45 relating to the Operation of the Rural Tourist Facility, be approved by modifying development consent 10.2014.230.1 as outlined in Attachment 1.**

**Attachments:**

- 1 10.2014.230.2 Modified Conditions of Consent, E2016/54308  
2 Current Consent 10.2014.230.1, E2016/54323  
20 3 Confidential - 10.2014.230.2 Submissions, E2016/54257





**Assessment:****1. INTRODUCTION****1.1 Details of approved development and any subsequent modifications**

Development consent 10.2014.230.1 was issued on 13 October 2014 and approved the use of a rural dwelling as a wedding venue, with accommodation for up to 12 guests.

The approval provides for a maximum of 26 weddings per year, and allows for “marquee weddings”, where a 200m<sup>2</sup> marquee is erected temporarily on a level pad to the north-west of the dwelling, and “in house” weddings, which are conducted within the pool area directly adjacent to the dwelling.

Condition 42, in addition to limiting the total number of weddings to 26 per annum, also imposes a limit of:

- 13 marquee weddings per year;
- a maximum of 2 marquee weddings in any one calendar month; and
- a maximum of 3 weddings, in total, in any one calendar month.

The original application attracted six objections, from owners of adjacent and nearby properties, and the approval was subsequently challenged in the Land & Environment Court by one of those objectors. The legal challenge was dismissed on 7 December 2015, but has been appealed. The appeal is not yet finalised.

**1.2 Section 96 modifications sought**

The application proposes the following amendments to conditions of approval:

**1. Condition 41(f)**Current Condition:

*No private fireworks displays are permitted unless conducted by a licensed pyrotechnician under the Explosives Regulation 2013 and in strict compliance with all NSW Workcover Authority requirements. Neighbours with domestic pets or animals likely to be affected by the loud noise from fireworks shall be notified at least 24 hours before any private fireworks event so that they can make appropriate alternative arrangements.*

Proposed Condition:

*No private fireworks displays are permitted on the site in association with the Rural Tourist Facility.*

The applicant advises that there is no intention for fireworks associated with the site use.

**2. Condition 42**Current Condition:

*The number of weddings are limited to twenty six (26) per year with no more than thirteen (13) marquee weddings per year. No more than 2 marquee weddings to be held in any calendar month, and no more than 3 weddings in total to be held in any calendar month.*

Proposed Condition:

*The number of weddings is limited to twenty six (26) per year with no more than thirteen (13) marquee weddings per year. No more than 2 marquee weddings to be held in any calendar month. For the months of January, February, June, July, August, November and December no more than 2 weddings are to be held in any calendar month. During the months of March,*

*April, May, September and October no more than 4 weddings are to be held in any calendar month.*

The applicant advises that the modification is requested to enable the facility to better address the seasonal nature of weddings in the locality.

As proposed, the modification makes no change to:

- the total number of weddings allowed per annum – maximum of 26;
- the maximum number of marquee weddings allowed – 13 per annum; and
- the maximum number of marque weddings allowed in any calendar month – 2.

What it proposes to change is the monthly frequency of weddings. The approval currently allows no more than 3 weddings (in total) in any month. The change would reduce the allowable number of weddings from 3 to 2 for the 7 nominated months of the year, and increase the allowable number from 3 to 4 for the nominated 5 months of the year.

### **3. Condition 43**

#### Current Condition:

*For marquee weddings, all amplified music from Bands, DJ's and the like to cease by 9.30pm with all guests (except those staying on the premises) to have left the site by 10.30pm. For in house weddings, amplified music to cease by 10pm and all guests (except those staying on the premises) to have left the site by 10.30pm.*

#### Proposed Condition:

*All amplified music (including bands, DJs and the like) is to occur in the pool area and is to cease by 10pm. All guests (except those staying on the premises) are to have left the site by 10.30pm. For marquee weddings, all amplified announcements in the marquee are to cease at 9.30pm.*

The original consent sought to differentiate between amplified music within a marquee and that from an in house wedding (i.e. where no marquee is used).

The applicant states that all amplified music occurs within the pool area of the existing dwelling, regardless of whether it is a marquee wedding or an in house wedding. The modification therefore seeks to impose one finishing time for amplified music for all weddings, and the later time of 10pm is proposed.

The proposed modification notes that amplified announcements (speeches and the like) will occur within the marquee, and proposes that these would finish at 9.30pm.

No change is proposed to the time by which guests not staying at the premises are to leave the site.

### **4. Condition 45**

#### Current Condition:

*Marquees are to be erected for no more than four days in a row, and are to be removed the day after the wedding.*

#### Proposed Condition:

*Marquees are to be erected for no more than four days in a row, and are to be removed the first 'standard' working day following the event.*

The applicant notes that most weddings occur on a Friday or Saturday night, and that the current wording requires removal of the marquee on a Sunday, when those responsible for the removal are not working.

- 5 No change is proposed to the maximum number of days a marquee can be erected, but the modification to 'standard working day' rather than the 'day after the event' reflects general working conditions.

### **1.3 Section 96(2) Modifications**

10 *A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

- 15 (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all),*

20 **Assessment:** The changes proposed primarily modify the monthly frequency of weddings. There is no change to the maximum number of weddings allowed per annum, nor a change to the maximum number of marquee weddings.

Given the nature of the modifications sought, it is considered that the development as modified will be substantially the same as that originally approved.

- 25 (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent,*

30 **Assessment:** There were no public authority referrals required for the original application.

(c) *it has notified the application in accordance with:*

- 35 (i) *the regulations, if the regulations so require, or*  
(ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

40 **Assessment:** Level 1 advertising was undertaken in accordance with DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications.

- 45 (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

**Assessment:** All submissions have been considered. See Section 3.6 of this report.

- 50 3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.*

**Assessment:** See Section 3 of this report.

55

**2. SUMMARY OF REFERRALS**

	Summary of Issues
Environmental Health Officer	See comments below
Development Engineer	Referrals not required for this application
Water & Waste Services	
Building Surveyor	
Fire Control Officer	
Tree Preservation Officer	
Government Authorities	

**Environmental Health Officer:**

- 5 The original development application was subject to detailed assessment by Council's Environmental Health officer, including a review by the (then) Team Leader, Environmental Services.

- 10 These assessments were instrumental in the negotiations of conditions for the consent in regard to noise issues, resulting in limitation on the number, type and frequency of weddings. Given that the proposed modifications will not change the key parameters of maximum number of weddings and maximum number of marquee weddings, formal referral of the application to Council's Environmental Health Officer has not been undertaken.

**15 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.

**20 3.1. STATE/REGIONAL PLANNING POLICIES AND INSTRUMENTS**

No change to assessment of the original development application 10.2014.230.1, where no relevant state or regional planning issues were identified.

**25 3.2. BYRON LOCAL ENVIRONMENTAL PLAN 2014**

- 30 The original development application was assessed under the provisions of Byron LEP 1988, which was in place at the time that the application was lodged. The proposal met the definition of "rural tourist facility", which was a permissible land use in the 1(a) General Rural Zone. [Note: This was a central issue of contention in the subsequent Land and Environment Court case, Roden v Bandora Holdings Pty Ltd, and the Court found that "the approved development meets the definition of a "rural tourist facility" and is permissible in the 1(a) General Rural Zone".]

- 35 Pursuant to Byron LEP 2014, the site is zoned RU2 Rural Landscape Zone. Under Byron LEP 2014, the development would fall within the definition of *function centre*, which is a prohibited development in the RU2 Zone.

- 40 A function centre is defined as "*a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres, and reception centres, but does not an entertainment facility*".

- 45 Notwithstanding this, the development is approved under Byron LEP 1988, and the applicant is entitled, pursuant to Section 96 of the Act, to apply to modify that consent. In considering this request, Council should be satisfied that, although prohibited under Byron LEP 2014, the proposal is not inconsistent with the objectives of the RU2 zone, and that it would not undermine the planning intent of relevant controls with LEP 2014.

The RU2 Zone objectives state:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- 5    ▪ 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.
- 10   ▪ To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality.

The assessment of the original application considered these objectives, as LEP 2014 was an exhibited draft at the time that the application was lodged. That assessment concluded:

*the limited number of events proposed and the conditions of consent to restrict marquee events, hours of operation, number of weddings per month and amplified music the development is considered to be not antipathetic with, or hostile to the RU2 Zone objectives or the objectives under Clause 6.8 and will not detract from the achievement of those objectives nor undermine the planning intent of the controls contained within that plan. The proposal is considered to be satisfactory.*

The current modification proposes a change to the permitted frequency of weddings, but otherwise retains the key restrictions imposed on the original consent. It is considered, therefore, that the modification as proposed does not alter the conclusion of the original assessment.

#### **Draft EPI that is or has been placed on public exhibition and details of which have been notified to the consent authority - Issues**

No draft EPIs affect the proposal.

### **3.3 DEVELOPMENT CONTROL PLANS**

#### **Development Control Plan 2014**

Development Control Requirement	Requirement	Complies?
<b>Part B Controls Applying Generally to Development Application</b>		
<b>B3 &amp; B4: Services &amp; Vehicle parking</b>	The proposed modification do not generate any additional demands for services or car parking	Yes
<b>B6 Buffers and Minimising Land Use Conflict</b>	<p>See submissions below. Operation of the approved development has resulted in allegations of land use conflict associated with disturbance for adjoining properties from noise at weddings on the site.</p> <p>The conditions of approval relating to the number and frequency of weddings were intended to address the potential for these conflicts.</p> <p>Allegations of non-compliance with conditions are being addressed separately to this assessment.</p> <p>The proposed modifications will not alter the key restrictions, being the limitation on the total number of weddings, the limit on the total number of marquee weddings, and the limit on the</p>	Yes

	<p>number of marque weddings in any calendar month.</p> <p>The proposed change to frequency of weddings would result in a reduction of the maximum monthly allowance for seven (7) months of the year, with an increase in frequency for the remaining five (5) months.</p> <p>It should be noted that the monthly maximum allowances are not able to be achieved for every calendar month, as that would result in substantially more than the total annual allowance (i.e. total annual allowance: 26 weddings; total annual number of weddings if current maximum monthly allowance could be achieved: 36 weddings).</p> <p>The proposed modification will result in one four month period and one three month period of reduced wedding frequency (i.e. 'out of season').</p> <p>As modified, the maximum monthly allowance could not be achieved for every calendar month, as that would exceed the annual maximum allowance of 26 weddings in total.</p> <p>It is therefore more likely that, as a result of the modification, in the 'out of season' periods, there could be more weekends where there is no activity, providing potential for an increased 'reprieve' for adjoining land owners.</p> <p>This is balanced by the potential for a greater frequency of weddings in the shorter 'wedding season' period.</p> <p>Overall, it is considered that the proposed modifications provide a slightly better outcome in terms of potential land use conflicts.</p>	
<b>Chapter D3 Tourist Accommodation</b>		
<b>D3.2.3 Character and Design in Rural Zones</b>	<p>Relevant performance criteria:</p> <p><i>Tourist accommodation development in Zones RU1 and RU2 must be compatible in character and amenity with the surrounding rural and natural landscape, and with development in the locality.</i></p> <p>The development is not primarily for the purpose of tourist accommodation. Nonetheless, the assessment above concludes that the proposed modifications will not result in any significant change to character of the approved development, in terms of the amenity of the area.</p> <p><i>All development to which this Chapter applies in Rural Zones must be low scale consistent with the relevant Aims, Guiding Principles, Best Practice Guidelines and Performance Standards contained in the Byron Rural Settlement Strategy 1998</i></p> <p>The proposed modifications do not change the scale of the approved development.</p>	Yes

**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**

- 5 The modifications as proposed are not likely to result in any significant alteration to the environmental, economic or social impacts associated with the approved development. In effect, the changes are likely to result in a slight improvement in social outcomes, providing an increased number of times within seven calendar months where there is no wedding activity.

### 3.5 The suitability of the site for the development

The approval of the original application determined that the site was suitable for the development as proposed. The proposed modifications do not alter that conclusion.

### 3.6 Submissions made in accordance with this Act or the regulations

The application was notified in accordance with Level 1 notification procedure from DCP 2014 Part A14 - Public Notification and Exhibition of Development Applications from 30 March to 12 April 2016. Council's records indicate that a total of four (4) submissions were received. Following is a summary of the matters raised in the submissions.

Summary of issue/ matter raised	Comment
Support for strengthening of condition prohibiting fireworks.	Noted
The proposed changes are about making sure that they gain additional weddings in any one year.	The changes as proposed will not achieve any increase in allowable weddings per annum.
By allowing additional weddings in summer and longer hours for music they are ensuring that the venue will be more appealing to more clients; hence more weddings in any one year.	See above – no changes to allowable wedding per annum. See assessment below regarding amplified music hours – it is proposed the 'earlier' finishing time of 9.30pm, which currently applies to amplified music within a marquee, should be applied to all weddings.
There is a pattern of non-compliance with a number of existing conditions.	Investigation of alleged non-compliance has commenced, but will await the outcome of current legal action.
Original conditions were subject of detailed assessment and should not be 'watered down'.	As described in this report, it is considered that the modifications proposed in this application do not weaken the conditions, in that the key parameters of limits on total number of weddings; limit on total number of marquee weddings; and limit on monthly number of marquee weddings, will not be changed, and the finishing time for amplified music will be earlier.
"Peak season: (i.e. the five month proposed for increased frequency) coincide with warmer weather. This will impact on ability for neighbours to enjoy outdoor spaces at their properties.	This is not the case. The five months proposed for increased frequency are March, April, May, September and October, which are in Autumn and Spring. In any case, the increase in frequency in these months is offset by a decrease in wedding frequency in the remaining seven months of the year, which includes the summer period
Noise from marque events is currently 'controlled' by a finishing time of 9.30pm for amplified music. Council should not allow a change in this time.	The applicant advises that amplified music is never located within the marquee, but occurs adjacent to the pool area at the dwelling. For in house weddings, the current condition allows music to go to 10pm, and the applicant

<b>Summary of issue/ matter raised</b>	<b>Comment</b>
	<p>suggests that this later date should apply to all weddings.</p> <p>Notwithstanding the location of the band or DJ on site, it is clear from submissions received that amplified music can be audible outside the site.</p> <p>It is considered that 9.30pm is a reasonable time for amplified music to finish. Imposing this earlier time for amplified music for all events also provides a balance to the increased frequency of weddings for five months.</p>
Rural Tourist Facility now a prohibited land use in Byron LEP 2014	<p>See Section 3.2 above – DA 10.2014.230.1 was approved under the provisions of Byron LEP 1988, where Rural Tourist Facility was a permissible use.</p> <p>The modification as proposed is not inconsistent with the objectives of the RU2 zone or other controls in Byron LEP 2014.</p>
Current use of the land is not consistent with the objectives of the Environmental Planning and Assessment Act – does not promote ‘social and economic welfare of the community’ or ‘encourage the promotion and co-ordination of the orderly and economic use and development of land’.	<p>This submission is made in relation to allegations that the current activities have a detrimental impact on the amenity of adjoining land.</p> <p>This issue is addressed above and in the body of this report.</p>
Modification of the consent is not in the public interest.	As above.

### **3.7 Public interest**

- 5 The submissions raised a number of ‘public interest’ issues. It is considered that the proposed modification is acceptable in terms of the public interest, subject to an adjustment to the condition relating to finishing times for amplified music, such that all music is finished by 9.30pm.

## **4. DEVELOPER CONTRIBUTIONS**

### **4.1 Water & Sewer Levies**

No change to previous assessment.

### **4.2 Section 94 Contributions**

- 15 No change to previous assessment.

20



## 5. CONCLUSION

The application proposes to change a number of conditions, as discussed below:

### 5 1. **Condition 41(f)**

#### Current Condition:

*No private fireworks displays are permitted unless conducted by a licensed pyrotechnician under the Explosives Regulation 2013 and in strict compliance with all NSW Workcover Authority requirements. Neighbours with domestic pets or animals likely to be affected by the loud noise from fireworks shall be notified at least 24 hours before any private fireworks event so that they can make appropriate alternative arrangements.*

#### Proposed Condition:

*No private fireworks displays are permitted on the site in association with the Rural Tourist Facility.*

The proposed modification is supported, as it results in a total prohibition of fireworks.

### 2. **Condition 42**

#### Current Condition:

*The number of weddings are limited to twenty six (26) per year with no more than thirteen (13) marquee weddings per year. No more than 2 marquee weddings to be held in any calendar month, and no more than 3 weddings in total to be held in any calendar month.*

#### Proposed Condition:

*The number of weddings is limited to twenty six (26) per year with no more than thirteen (13) marquee weddings per year. No more than 2 marquee weddings to be held in any calendar month. For the months of January, February, June, July, August, November and December no more than 2 weddings are to be held in any calendar month. During the months of March, April, May, September and October no more than 4 weddings are to be held in any calendar month.*

The proposed change is supported, as it retains the import limitations of:

- the total number of weddings allowed per annum – maximum of 26;
- the maximum number of marquee weddings allowed – 13 per annum; and
- the maximum number of marquee weddings allowed in any calendar month – 2.

The proposed change to frequency of weddings would result in a reduction of the maximum monthly allowance for seven (7) months of the year, with an increase in frequency for the remaining five (5) months.

It should be noted that the monthly maximum allowances are not able to be achieved for every calendar month, as that would result in substantially more than the total annual allowance (i.e. total annual allowance: 26 weddings; total annual number of weddings if current maximum monthly allowance could be achieved: 36 weddings).

The proposed modification will result in one four month period and one three month period of reduced wedding frequency (i.e. 'out of season').

As modified, the maximum monthly allowance could not be achieved for every calendar month, as that would exceed the annual maximum allowance of 26 weddings in total.

It is therefore more likely that, as a result of the modification, there could be more weekends in the 'out of season' periods where there is no activity, providing potential for an increased 'reprieve' for adjoining land owners.

- 5 This is balanced by the potential for a greater frequency of weddings in the shorter 'wedding season' period.

Overall, it is considered that the proposed modifications provide a slightly better outcome in terms of potential land use conflicts.

**3. Condition 43**

Current Condition:

*For marquee weddings, all amplified music from Bands, DJ's and the like to cease by 9.30pm with all guests (except those staying on the premises) to have left the site by 10.30pm. For in house weddings, amplified music to cease by 10pm and all guests (except those staying on the premises) to have left the site by 10.30pm.*

Proposed Condition:

*All amplified music (including bands, DJs and the like) is to occur in the pool area and is to cease by 10pm. All guests (except those staying on the premises) are to have left the site by 10.30pm. For marquee weddings, all amplified announcements in the marquee are to cease at 9.30pm.*

The original consent sought to differentiate between amplified music within a marquee and that from an in house wedding (i.e. where no marquee is used). The applicant states, however, that all amplified music occurs within the pool area of the existing dwelling, regardless of whether it is a marquee wedding or an in house wedding. The imposition of one finishing time for amplified music for all weddings is supported, but it is considered that the earlier time of 9.30pm should apply to ensure that potential conflicts with neighbours are minimised.

**4. Condition 45**

Current Condition:

*Marquees are to be erected for no more than four days in a row, and are to be removed the day after the wedding.*

Proposed Condition:

*Marquees are to be erected for no more than four days in a row, and are to be removed the first 'standard' working day following the event.*

The change can be supported, particularly as the total number of days (four) remains unchanged.

**Report No. 13.11      PLANNING - Submissions Report - 26.2014.7.1 - Planning Proposal for Housekeeping Minor Amendments to Byron LEP 2014**

**Directorate:** Sustainable Environment and Economy

**Report Author:** Fiona Sinclair, Planner

**File No:** I2016/749

**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 minor 'housekeeping' amendments to Byron Local Environmental Plan (LEP) 2014.

The Planning Proposal (included as Attachment 1) received a positive Gateway determination from the Department of Planning and Environment and was placed on public exhibition for a period of 14 days from 5 to 19 May 2016. Two submissions, raising two issues, were received during the public exhibition period. The issue of reviewing dual occupancy lot sizes will be considered as part of the Residential Strategy and the second issue acknowledges the importance of an existing heritage item.

This report recommends that Council proceed with the planning proposal without amendment.

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.

**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.

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**RECOMMENDATION:**

**That Council**

- 1. Forward the planning proposal to amend Byron LEP 2014, as exhibited and included in Attachment 1 of this report, to NSW Parliamentary Counsel's Office requesting that a draft LEP instrument be prepared.**
- 2. 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.**
- 3. 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 for Housekeeping Minor Amendments to Byron LEP 2014, E2016/27775
- 2 Confidential - 26.2014.7.1 Submissions , E2016/54180
- 3 Form of Special Disclosure of Pecuniary Interest, E2012/2815

**Report**

At its meeting of 30 October 2014, Council resolved to initiate a planning proposal to undertake a number of 'housekeeping' amendments to the Byron Local Environmental Plan (LEP) 2014:

**14-509 Resolved:**

1. *That a minor corrections and amendments planning proposal be prepared that seeks to amend Byron LEP in the manner set out in Table 1 of this report (#E2014/66629).*
2. *That the General Manager (or delegate of his choice) be delegated the authority to include additional non-policy amendments in the planning proposal (not already identified in this report) for minor corrections and amendments to Byron LEP 2014.*
3. *That the General Manager (or delegate of his choice) be delegated the authority to assume the role of the 'relevant planning authority' pursuant to the Environmental Planning & Assessment Act 1979 in relation to preparation and finalisation (whether Council has delegated authority to make the plan or not) of any other planning proposals consisting of non-policy matters such as corrections and consequential and/or minor amendments; and that Council be advised of any such amendments made under delegated authority.*

Council prepared the Planning Proposal which involves twenty-one different amendments to the Byron LEP 2014, in order to correct minor errors in maps and written provisions that have been identified since the instrument came into effect in July 2014. All the proposed amendments are minor in nature and are not policy related.

The Planning Proposal (refer Attachment 1) received a positive Gateway determination from the Department of Planning and Environment on 27 August 2016 and, in accordance with the gateway requirements, was placed on public exhibition for a period of 14 days from 5 to 19 May 2016.

A total of two submissions were received during the public exhibition period. Each submission is summarised in the table below with a response from Council staff on the matters raised:

No.	Summary of submission	Staff Comments
	<u>Relates to Item 1 in the Planning Proposal</u> - I would like to draw your attention to Table 1 item 1 24 Mill Street Mullumbimby because this house is a fine example of a heritage item and should remain in the Heritage precinct once the E3 zone is worked out.	No changes are proposed to the heritage precinct. 24 Mill Street, Mullumbimby will remain as a listed heritage item in Schedule 5 of Byron LEP 2014.
	<u>Relates to Item 17 in the Planning Proposal</u> - Item #17 relates to the need to correct a typographical error in Clause 4.1E of the published version of the LEP that referred to 'Zone RU2 Rural Landscape' instead of 'Zone R2 Low Density Residential'. Although this was clearly a typographical error and is in need of correction the proposed 800sqm minimum lot size for 'attached dual occupancies' deserves reconsideration for the following reasons; <ul style="list-style-type: none"> <li>Attached dual occupancies are able to maintain a lower scale character than detached dual occupancies (one structure</li> </ul>	The most appropriate minimum lot size for dual occupancy developments will be considered as part of the new residential strategy currently being prepared.

No.	Summary of submission	Staff Comments
	<p>per lot Vs several), as such, it stands to reason that the minimum lot size for an attached dual occupancy should be smaller than that of a detached dual occupancy (i.e. 600sqm for attached and 800sqm for detached).</p> <ul style="list-style-type: none"> <li>• Attached dual occupancies can provide additional housing within existing urban areas and reduce demand on greenfield expansion, without compromising low scale built form and maintaining high levels of amenity.</li> <li>• Attached dual occupancies can provide more affordable housing and represents a good example of the 'economic use and development of land'.</li> </ul>	

**Recommendation**

It is recommended that Council proceed with this planning proposal without amendment.

5

**Financial Implications**

As a Council initiated planning proposal the costs for staff time in preparing and processing the planning proposal will be met by Council.

10

**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).

15

**Report No. 13.12**      **Mullumbimby Masterplan Project Plan**  
**Directorate:**      Sustainable Environment and Economy  
**Report Author:**      Tara McGready, Senior Planner  
**File No:**      I2016/754  
5 **Theme:**      Ecology  
                 Planning Policy and Natural Environment

**Summary:**

10 Council established a PRG to develop a project plan for the Mullumbimby Masterplan. The PRG has satisfied the objectives of its Constitution and a Mullumbimby Masterplan Project Plan has been developed, Attachment 1.

15 The project plan identifies funding, to a total of \$115,000 required for the preparation of the Mullumbimby Masterplan.

20 This report proposes the adoption of the Mullumbimby Masterplan Project Plan and the allocation of funding for the development of the Mullumbimby Masterplan.

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**RECOMMENDATION:**

1. **That Council endorse the Mullumbimby Masterplan Project Plan as presented in Attachment 1 (#E2016/64398).**
2. **That Council allocate funds as follows for the development of the Mullumbimby Masterplan:**
  - **\$12,000 from section 94 'Open Space Mullumbimby' for the Masterplan**
  - **\$30,000 from section 94 'Urban Road Mullumbimby' for the Movement Study**
  - **\$30,000 from section 94A for the Place Activation Seed Funding**
  - **\$43,000 from Land and Natural Environment reserve**

**Attachments:**

- 25    1      Mullumbimby Masterplan Project Plan , E2016/64398

**Report**

At its Ordinary meeting of 29 October 2015, Council resolved as follows:

**5 15-555 Resolved** (relevant part only):

1. That Council establish a PRG to develop a draft brief, delivery plan and process for a Mullumbimby Masterplan.
2. That the Mullumbimby Masterplan PRG be comprised of three Councillors and up to five community members.
3. That the Mullumbimby Masterplan PRG report to Council and be wound up within six months of establishment subject to Council consideration of a final report.

15 At its Ordinary meeting of 4 February 2016, Council resolved (16-027) to appoint 5 community members to the PRG, and to run a second round of advertising for Expressions of Interest to appoint 2 further community members to the PRG. At its ordinary meeting of 17 March 2016, Council appointed another 4 community members to the PRG (resolution 16-106). A total of 9 PRG members were appointed after two rounds of EOIs.

20 The PRG have met 4 times since their first meeting was held on the 31 March 2016 and the group's 6 month term is due to expire on 30 September 2016, subject to Council consideration of a final report. At its last meeting of 23 June 2016, the PRG finalised the draft project plan for the Mullumbimby Masterplan for Council endorsement. This satisfies the PRG's Constitution objectives as adopted by Council resolution 16-027, as follows:

*The purpose of the Mullumbimby Masterplan Scoping Project Reference Group is:*

- a) Develop a project plan, with the assistance of Council staff, for the Mullumbimby masterplan. This includes developing a project brief, delivery plan and a process for the development of the masterplan.
- b) To identify who should be involved in the different stages of preparing the Mullumbimby masterplan.

35 The draft Mullumbimby Masterplan Project Plan (Attachment 1) sets out the aim and objectives for the Masterplan, the process for its development and identifies who should be involved at each stage of the project plan.

40 A key mechanism for successful governance of the Masterplan process is the formation of a project governance working group – referred to as 'Guardian Group' (GG) – at the very outset of the process. This group will take responsibility for guiding the preparation of the Masterplan. At key points throughout the three parts of the masterplan process, the group will be engaged through workshops and provide input into and guide the content of the plan. The project plan shows the points within the process where the GG will be engaged.

45 The first step of the project plan – the Mullumbimby Have Your Say Survey - has commenced. This step was endorsed by Council at its meeting of 9 June 2016 as follows:

**16-306 Resolved:**

50 That Council undertake a community survey in June in the form of three Questions as agreed at the Project Reference Group meeting of 23 May to be available on Council's website, via survey monkey and in hard copy distributed in public businesses such as shops in Mullumbimby and in Council's foyer.

The community survey was distributed by members of the PRG and was open for responses from 10 June to 30 June. A total of 298 responses were received. The responses are currently being recorded and analysed.

## 5 Financial Implications

Funding, additional to staff time, is required for a number of steps within the project plan. Approximate funding requirements have been shown next to certain steps in the project plan and is summarised in the table below.

10 A total of \$115,000 is required to develop the Mullumbimby Masterplan. As a comparison, Council allocated \$310,000 for the development of the Byron Bay Town Centre Masterplan, which didn't include the preparation of a Movement Study.

Component of Masterplan	Approximate funds needed	S94/94a funds available	Funding shortfall
Workshop facilitation and assistance with preparation of Masterplan by consultant/s.	\$55,000	\$12,000	\$43,000
Movement Study	\$30,000	\$30,000	-
Place activation project seed funding (similar to Byron Bay Place making Seed Fund)	\$30,000	\$30,000	-
<b>TOTAL</b>	<b>\$115,000</b>	<b>\$72,000</b>	<b>\$43,000</b>

15 The funding shortfall can be met by the Land and Natural Environment reserve.

## Statutory and Policy Compliance Implications

20 The Local Government (General) Regulation 2005 states:

### 211 Authorisation of expenditure

- 25 (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:
- (a) has approved the expenditure, and
  - (b) has voted the money necessary to meet the expenditure.
- (2) A council must each year hold a meeting for the purpose of approving expenditure and voting money.
- 30 (3) All such approvals and votes lapse at the end of a council's financial year. However, this subclause does not apply to approvals and votes relating to:
- (a) work carried out or started, or contracted to be carried out, for the council, or
  - (b) any service provided, or contracted to be provided, for the council, or
  - (c) goods or materials provided, or contracted to be provided, for the council, or
  - 35 (d) facilities provided or started, or contracted to be provided, for the council, before the end of the year concerned, or to the payment of remuneration to members of the council's staff.



**Report No. 13.13**      **PLANNING - Draft Byron Shire Residential Strategy**  
**Directorate:**      Sustainable Environment and Economy  
**Report Author:**      Alex Caras, Team Leader Land Use Strategy  
**File No:**      I2016/762  
5 **Theme:**      Ecology  
                 Planning Policy and Natural Environment

**Summary:**

10 This report presents key highlights of the draft Byron Shire Residential Strategy and supporting  
Housing Needs Report for Council's consideration. The aim of the Residential Strategy is to set a  
clear vision and policy framework for the Shire's urban residential lands, having regard to the wider  
state/regional planning framework and the Housing Needs Report. A key focus of the draft  
Strategy is on 'where' and 'what type of' future housing will need to be delivered to accommodate  
15 future population growth in the Shire to 2036. As not all sections of the draft Strategy are 100%  
complete for exhibition purposes, it is recommended that Council adopt a staged approach and  
exhibit those sections of the working draft Strategy identified in Attachment 2 together with the  
supporting Housing Needs Report (Attachment 1) for public comment.

20 **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  
25 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.

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**RECOMMENDATION:**

1. **That Council exhibit those parts of the working draft Byron Shire Residential Strategy contained in Attachment 2 (#E2016/65098) for public comment.**
2. **That the Housing Needs Report (Attachment 1 #E2016/63711) be made available as supporting information.**

30 **Attachments:**

- 1 Byron Housing Needs report (December, 2015), E2016/63711
- 2 Parts of Working Draft Byron Residential Strategy suitable for public exhibition, E2016/65098

35

## Report

### Background

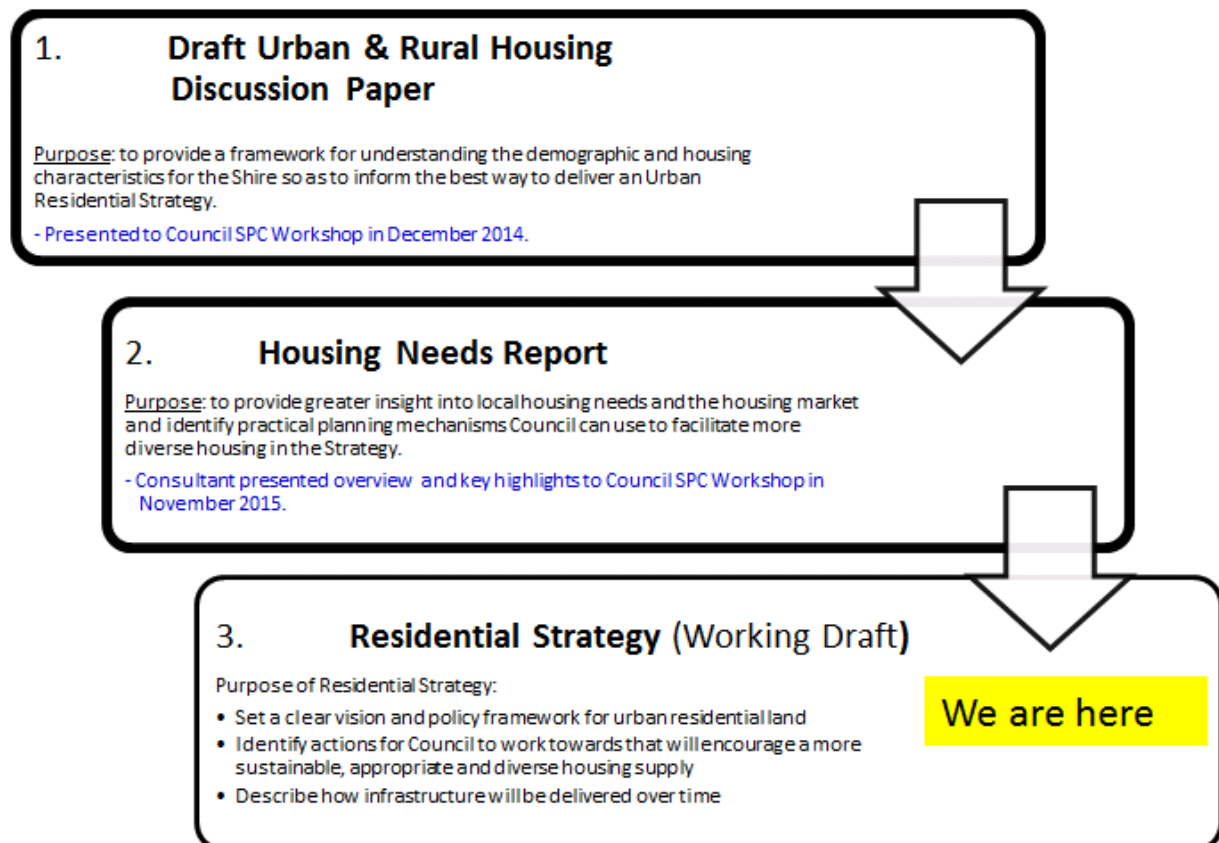
Among the key actions identified in Council's 2015-16 Operational Plan was to "Prepare the Residential Lands Strategy" (4.2.2). This is in response to activity EN 2.1.1 in the 2013-17 Delivery Plan to "Develop and implement strategic planning studies, strategies and plans".

The process for preparing a residential strategy commenced in late 2014 and has been undertaken in three stages as follows:

- Draft Urban and Rural Housing Discussion Paper
- Housing Needs Report
- Draft Residential Strategy

Figure 1 below provides an overview of the strategy process to date.

### Residential Strategy Process and Timelines



Council engaged Buckley Vann Town Planning (consultant) to undertake stages 2 and 3 above, which are discussed in more detail below.

### Housing Needs Report (Stage 2)

The purpose of the Housing Needs Report (the 'report') was to identify housing need, supply and market issues in Byron Shire and use this information as a basis for recommending future policy directions to inform the draft Residential Strategy. The report was completed in December 2015 and is contained in Attachment 1.

Some of the main learnings identified in the report include:

- Attractive, well designed and practical smaller housing is possible and needed
- Delivering a different product at a different price point requires two things:
  - reducing the size of lots
  - reducing the size of houses
- Engineering standards should support innovation, be more flexible and consider what is actually required, rather than standard practice
- Suite of mechanisms required to support more affordable and diverse housing products (not just small lots)
- The language around providing more affordable and diverse products needs to change, as certain terms and phrases reinforce preconceptions
- Council needs to lead by example
- Partnerships are powerful

Two key components informing the report recommendations were:

- Targeted stakeholder consultation (real estate agents, local developers, local planning consultants, researchers, social housing providers, and providers of accommodation for older people); and
- Best Practice Australian Case studies (Economic Development Queensland UrbanGrowth NSW project – Thornton development)

The final report recommends a range of housing tools and mechanisms focussed on:

*I) Regulatory or policy changes, which include:*

- Targeted amendments to subdivision provisions;
- Consideration of building height increases;
- Identification of dwellings per hectare targets; and
- Reconsideration of floor space ratio criteria.

*II) Internal governance/or policy matters, which include:*

- Targeted developer incentives (reduced/waive contributions costs for specific development types);
- Clear vision on what housing product/price point is specifically being targeted and use this to inform policy change, future investigations; demonstration projects, etc.;
- Additional studies and investigations for residential land supply;
- Investigation into targeted infill redevelopment sites; targeted height bonuses (sites or precincts); and in particular to identify new residential land opportunities that have fewer impediments for residential development (that is, appropriate infrastructure, fewer topographic/environmental constraints, etc).

*III) Council led initiatives, which include:*

- Fast track approvals for targeted residential development (by type or quality) (reduce holding costs; bring products on the market sooner);
- Changing the language around housing types (town cottages, garden homes; patio homes);
- Demonstration projects/joint ventures/partnering – building a relationship with the development industry of sharing ideas, expectations;
- Best practice model/exemplar information, suitable housing typologies, etc.;
- Cultural change – communicating that Council is motivated to address the issue of housing its local residents and is actively encouraging high quality, diverse housing mix; seeking design excellence; and working with the development community for better, sustainable outcomes for its community; and
- Partnerships with like-minded partners Urban Growth NSW, EDQ, local UDIA groups, etc.

It is considered that implementing an appropriate mix of the above tools and mechanisms will increase Council's capacity to deliver:

- 5       • more variety of dwelling types appearing in the local market (i.e. greater housing diversity), which will also help satisfy unmet housing preference across the whole community (in particular key workers, families, empty nesters and first home buyers) and thereby better responding to housing needs throughout the full life cycle;
- slightly higher yields of housing stock from the same land supply (through for example, supporting smaller housing on smaller lots, increased height allowances, and so on); and as a consequence of these; and
- 10     • greater price variation (particularly showing up at or below the current median price point) that benefit home owners and/or is passed on by investors in the form of lower rental prices.

Draft Residential Strategy (Stage 3)

15     The aim of the draft Residential Strategy (the 'Strategy') is to set a clear vision and policy framework for the Shire's urban residential lands, having regard to the wider state/regional planning framework and the Housing Needs Report findings and recommendations. A key focus of the draft Strategy is on 'where' and 'what type of' future housing will need to be delivered to accommodate future population growth. To align with the Draft North Coast Regional Plan the draft Strategy has a 2016-2036 planning horizon.

20     Key highlights from the working draft Strategy so far include:

- 25     1) The Draft North Coast Regional Plan 2016 estimates that Byron Shire will need to plan for 3,750-4,500 dwellings by 2036. These figures include dwellings approved since 2011 and take into account projected population growth, housing demand and mix to meet different household needs, allowances for tourism opportunities (eg holiday accommodation) and a surplus to address any changes in growth projections;
- 30     2) The majority of future housing stock will be located in urban areas with new housing supply between 2016-2036 expected to be provided in the following three ways:
  - Existing vacant residential zoned land (potentially 1,700 dwellings);
  - Urban consolidation / Infill (potentially 780 dwellings);
  - Rezoning of new greenfield sites (potentially 1,070 dwellings).
- 35     Collectively this equates to 3,550 potential new dwellings with approximately 70% of these (2,480 dwellings) capable of being delivered from existing vacant residential zoned land and urban consolidation/infill development.
- 40     3) When combined with the 1,540 dwellings, dual occupancies and secondary dwellings already approved since 2011, there is capacity for the Shire to deliver more than 5,000 urban dwellings over the 2011-2036 period of the draft North Coast Regional Plan.
- 45     4) A mapping analysis was undertaken to identify opportunities and constraints to future residential housing delivery in the Shire, which in turn has underpinned the dwelling estimates in '2)' above. The assumptions used in the mapping analysis may only be realised if there are suitable planning mechanisms in place to encourage and support greater housing diversity (and hence housing choice).
- 50     5) Sites identified as having future urban or village development potential in the draft Rural Land Use Strategy were also considered in the mapping analysis ('4' above). Collectively both strategies will provide a blueprint for future growth management in the Shire and also will inform Council's employment land strategy (to be prepared in 2016-17).

6) There may be opportunities to provide a higher proportion of future housing through infill development (compared to greenfield development) – in particular through redevelopment of larger lots for duplex, terrace, integrated or apartment style housing — if this approach is supported by Council and the community.

7) Housing diversity and infill development are not only important in meeting future housing demand in the Shire, but also in delivering housing that:

- Is well located in relation to existing employment and services, reducing the reliance on car based transport;
- Has the potential to fill the gap in for housing products missing within the Shire – including more affordable housing for key workers, housing for seniors and older persons, and housing for young persons and couples; and
- Does not contribute to ongoing, unnecessary urban sprawl with its associated cost implications for infrastructure delivery and servicing.

The draft Strategy is not at a stage of completion where it can be exhibited as a stand-alone document. However, those sections that have been completed collectively provide a clear strategic framework for considering 'where' and 'what type of' future housing can be delivered to accommodate future population growth. As such, Council may wish to adopt a staged approach and exhibit those parts of the working draft Strategy contained in Attachment 2 together with the supporting Housing Needs Report (Attachment 1) for public comment. This would provide an opportunity for early community engagement on potential greenfield and infill residential opportunities, as well as gauge community opinion on preferred housing forms (e.g. small lot housing versus medium density townhouse development) and breakdown of future residential development (e.g. proportion of new dwellings be provided as infill development versus releasing new areas of land for greenfield development?). The community's feedback would inform the next stage of finalising the draft Strategy which will then be reported to Council for consideration and exhibition.

It is anticipated that the exhibition period will run for a minimum of six weeks and include the use of interactive web site survey/s, media releases, information stalls and other means of informing and engaging the wider community.

#### Affordable Housing

Council at its 9 June 2016 Ordinary Meeting resolved to give consideration (in the development of the Byron Shire Residential Strategy) to how different planning instruments and policies may be used to encourage the construction and/or provision of affordable housing within the Byron Shire, including:

#### **Res 16-292**

*b) Establishing an affordable housing target to provide the incentive to implement, measure and monitor the provision of affordable housing within the Byron Shire.*

*i) Establishing an affordable housing target to provide the incentive to implement, measure and monitor the provision of affordable housing within the Byron Shire.*

*ii) Measures that encourage the promotion of the efficient supply of well-located diverse housing;*

*iii) Incentives that promote the provision of affordable housing enabled through the LEP and other planning policies;*

- iv) *Requirements for the development of affordable housing in appropriate locations with the use of mandatory provisions;*
- 5 v) *A review of Section 94 concessions to identify and consider support for affordable housing developments such as:*
  - *an agreed rental to achieve an affordability concession; e.g. 80% market value*
  - *identified affordable housing to have an appointed community housing manager to monitor any agreed upon affordability provisions;*
  - 10 • *the development of a council maintained affordability register to provide data on affordability developments and to measure if any agreed upon targets for affordability in the Shire are being achieved.*
- 15 vi) *A review of the timing of Section 64 and Section 94 charges to encourage affordable housing initiatives (e.g. payment of charges delayed until an occupation certificate is granted).*
- 20 vii) *A review of the potential for allowing manufactured housing in infill development to encourage affordability purchases. e.g. enabling purchase of a house while leasing the land on which it stands.*
- viii) *That a review of land suitable for housing stock be investigated and reported to Council.*

The above matters will be considered as part of the next stage of completing the draft Strategy and may progress as specific policy directions and/or actions to be implemented. A review of what other councils are doing to address affordable housing is currently underway.

**Summary and recommendation**

This report presents key highlights of draft Strategy and supporting Housing Needs Report for Council's consideration. As not all sections of the draft Strategy are 100% complete for exhibition purposes, it is recommended that Council exhibit those parts of the working draft Strategy contained in Attachment 2) for public comment. The supporting Housing Needs Report (Attachment 1) will be made available as supporting information.

**Financial Implications**

The cost of preparing the draft Strategy has been met by Council.

**Statutory and Policy Compliance Implications**

The completed components of the draft Strategy (Attachment 2) are consistent with the relevant Commonwealth, State and Regional policy frameworks.

**STAFF REPORTS - INFRASTRUCTURE SERVICES**

**Report No. 13.14      Handover of Road Assets from Roads & Maritime Services resulting from the Tintenbar to Ewingsdale Pacific Highway Upgrade Project**

**Directorate:** Infrastructure Services  
**Report Author:** Tony Nash, Manager Works  
**File No:** I2016/719  
**Theme:** Community Infrastructure  
              Local Roads and Drainage

**Summary:**

To advise Council of the handover of new local road assets at Arrowhead Road, Wiley Road and Tinderbox Road and the handover on midnight 14 August 2016 of old Pacific Highway assets, now Hinterland Way, between Bangalow Road and the southern Council boundary after completion of the Pacific Highway Upgrade Project between Tintenbar and Ewingsdale (T2E) by the Roads and Maritime Services (RMS).

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**RECOMMENDATION:**

**That the information in this report be noted, including the handover by the Roads and Maritime Services (RMS) on midnight 14 August 2016 of old Pacific Highway assets, now Hinterland Way, between Bangalow Road and the southern Council boundary.**

**Attachments:**

- 1 Letter from RMS about Handover of Assets from T2E Project to Byron Shire Council., E2016/64121
- 2 T2E Mapping for Handover of Assets to Council, E2016/64119

## Report

The T2E Upgrade has resulted in the bypass of a 22km section of the former Pacific Highway between the interchange at Tintenbar (within Ballina Shire) and the northern interchange roundabouts at Ewingsdale. Approximately 13 km of this section lies within Byron Shire.

The Pacific Highway is a Classified Road within the NSW road network and the RMS are the State agency responsible for this road and its assets. A classified road is defined in the Roads Act 1993, as:

**classified road** means any of the following:

- (a) a main road,
- (b) a highway,
- (c) a freeway,
- (d) a controlled access road,
- (e) a secondary road,
- (f) a tourist road,
- (g) a tollway,
- (g1) a transitway,
- (h) a State work.

The NSW Roads Act 1993 provides at s56 "The changing of the route or boundaries of a classified road does not affect the classification of the road and the road has the same classification along the new route or between the new boundaries as it had along the old route or between the old boundaries."

RMS confirms that the former Pacific Highway, (also forming part of the Hinterland Way) between Bangalow and Ewingsdale will retain the classification as a State Road, including the three (3) roundabout pavements at the interchanges at Bangalow and Ewingsdale. This will allow RMS to have full control of these roads and the State Road route when the St Helena tunnel is closed for any purpose. These road sections are marked orange on the attached maps.

The landscaping in the central islands at the three (3) roundabouts will be Council's responsibility, together with landscaping around the edges of the roundabouts as these are considered "town entry treatments" by RMS. This is a consistent approach for the other highway interchanges with our Council area and for other LGA's along the Pacific Highway route. The exact locations of the maintenance responsibilities for RMS and Council that have been negotiated with RMS will be captured spatially and included as a layer on Council's GIS, so there is a clear understanding & knowledge by staff for the future.

Consistent with the provision of S56 of the NSW Roads Act 1993 and given that the new Pacific Highway is now operational, the old Pacific Highway from Tintenbar to Bangalow (now forming part of the Hinterland Way) is automatically declassified to local road status and there is no need for gazettal of this adjustment. These road sections are marked pink on the attached maps.

RMS will withdraw from the provision of maintenance to the bypassed section of the former Pacific Highway between Skinner's Creek (southern Byron Shire Council boundary with Ballina Shire Council) and the southern interchange roundabout at Bangalow from midnight 14th August 2016. Ongoing maintenance and responsibility for



the above mentioned section of the Hinterland Way will by default automatically revert to Byron Shire Council as the roads authority pursuant to the NSW Roads Act 1993

- 5 This withdrawal by RMS is in line with the longstanding administrative arrangements for road management agreed between the State Government and Local Government NSW (LGNSW).

- 10 A ten (10) year maintenance works schedule, funded 100% by RMS, is currently being negotiated for the bypassed section of the former Pacific Highway between Skinner's Creek and the southern interchange roundabout at Bangalow. Council's submission was for approximately \$840,000 (excluding any maintenance for the Skinners Creek culvert)

- 15 The specialist study into the future maintenance of the culvert at Skinners Creek is progressing, however as an interim arrangement, RMS will commit to assisting with necessary culvert rehabilitation planning until the ten (10) year maintenance works schedule is determined. These discussions will involve Ballina Shire Council as the culvert will be a part asset of both Council's, with the arrangements for asset inspections and maintenance responsibilities to be determined and finalised. This is not an uncommon situation for roads that traverse LGA boundaries.

- 20 There are several new local roads that have been constructed by RMS as part of the T2E project, being:
- Wiley Rd
  - Arrowhead Rd
  - Part of Tinderbox Rd

- 25 These road sections are marked blue on the attached maps.

- 30 These new road pavements have been constructed as part of the T2E project by the contractor (Lendlease), for the RMS. Their maintenance is currently the responsibility of the contractor during the twelve (12) months defects liability period under the contract. At the end of this period the responsibility and maintenance will revert to Council.

- 35 Council staff have been involved with staff from the RMS and their contractor for the acceptance of these roads into the defects liability period. There are no unresolved issues associated with these three roads.

The dedication of these road assets to Council by RMS are similar to the assets created by developers as part of conditions of consent for subdivisions and other building developments.

- 40 The dilapidation of the local road network used by the construction traffic has been an item of discussion between Council, RMS and Lendlease. The road in discussion is Bangalow Road, Bangalow, between the new highway and Tinderbox Road.

- 45 This section of Bangalow Road consists of two parts and in two very different conditions:
1. Tinderbox Road to east of Coopers Shoot Road, which is in good condition.
  2. Highway southbound on ramp to east of Coopers Shoot Road, which is in poor condition and was in this condition before the T2E highway upgrade project.

- 50 Another road discussed with the RMS has been William Flick Lane, which was not part of the T2E project and not included in the T2E dilapidation surveys. The condition of William Flick Lane is generally unaffected by the T2E works but there are some minor items to be discussed and resolved. Both these items will be resolved in due course as staff from Council and RMS meet regularly.

**Financial Implications**

The RMS will assist Council financially with the handover of the old Pacific Highway assets with a ten (10) year maintenance works schedule funded completely by them.

- 5 Council's submission was for approximately \$840,000 (excluding any maintenance for the Skinners Creek culvert)

The dedication of the new road assets in Wiley Rd, Arrowhead Rd part of Tinderbox Rd, will not attract any financial assistance from RMS.

10

**Statutory and Policy Compliance Implications**

The handover of the old Pacific Highway assets are in accordance with S56 of Roads Act 1993, which is as follows:

15

*56 Variation of route etc of classified roads*

*The changing of the route or boundaries of a classified road does not affect the classification of the road and the road has the same classification along the new route or between the new boundaries as it had along the old route or between the old boundaries.*

**REPORTS OF COMMITTEES - SUSTAINABLE ENVIRONMENT AND ECONOMY****Report No. 14.1      Report of the Biodiversity and Sustainability Advisory Committee Meeting held on 23 June 2016**

**Directorate:** Sustainable Environment and Economy  
**Report Author:** Sharyn French, Manager Environmental and Economic Planning  
**File No:** I2016/702  
**Theme:** Ecology  
Planning Policy and Natural Environment

**Summary:**

This report provides the minutes of the Biodiversity and Sustainability Advisory Committee Meeting of 23 June 2016.

**RECOMMENDATION:**

1. That Council note the minutes of the Biodiversity and Sustainability Advisory Committee Meeting held on 23 June 2016.
2. That Council does not adopt Committee Recommendation under Business Arising from Previous Minutes as shown in this report and Attachment 1, but instead adopts the Management Recommendation as follows:

**Management Recommendation**

That Council peer review the draft Integrated Weed Management Strategy against Council resolution 13-621 to ensure its compliance and that a detailed costed implementation plan be prepared to inform Council's Financial Sustainability Plan, and that this work be reported to Council along with the draft Strategy for Councils consideration.

That Council consider an allocation of \$20,000 in the quarterly budget review to undertake the peer review and detailed costed implementation plan.

**Attachments:**

- 1 Minutes 23/06/2016 Biodiversity and Sustainability Advisory Committee, I2016/680

**Report**

The attachment to this report provides the minutes of the Biodiversity and Sustainability Advisory Committee Meeting of 23 June 2016 for determination by Council. The agenda for this meeting

5 can be located on Council's website at:  
[http://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2016/06/BSAC\\_23062016\\_AGN\\_510\\_AT.PDF](http://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2016/06/BSAC_23062016_AGN_510_AT.PDF)

**Committee Recommendation - Business arising from previous minutes:**

10 That a workshop be held with members of the Biodiversity and Sustainability Advisory Committee on the Integrated Weed Management Strategy and a report provided to the next Committee Meeting.

**Management Comments**

15 In accordance with the Committee Recommendation above, Management advise that the draft Byron Shire Integrated Weed Management Strategy has been prepared in accordance with Council resolution 13-621:

**Resolution 13-621**

- 20 1. *That Council develop a Shire Wide Integrated Weed/Pest Management Policy for Council owned and managed lands, and a Shire Wide Integrated Weed/Pest Management Strategic Action Plan for Council owned and managed lands in consultation with Council staff, community and experts in the field.*
- 25 2. *That the following are included within the vision of the Integrated Weed/Pest Management Policy:*
  - a) *An aspiration to reach the goal of ceasing the use of all non-organic chemical based herbicides and the repetitive use of all non-organic chemical pesticides, in highly frequented, public use areas, within 5 years.*
  - 30 b) *Consideration that non organic chemical herbicides are the least preferred, though currently are, at times essential management option, and the process of managing weeds and controlling vegetation should be undertaken in a way that minimises adverse effects.*
  - 35 c) *Promotion of the concept of best practice weed management, taking an integrated approach to the control of weeds and vegetation, and uses methods that have the least potential to adversely affect human health and the environment while achieving the desired outcome.*
  - d) *A statement outlining desired outcomes of the Policy.*
- 40 3. *That an Integrated Weed and Pest Management Strategic Action Plan considers:*
  - a) *A non-organic chemical use audit for weed control, including an outline of where it is used, the types used and the current budget of use.*
  - b) *Increasing native plantings as a method of weed control.*
  - 45 c) *An updated report every two years outlining progress of the goal of ceasing the use of all non-organic chemical based herbicides and the repetitive use of nonorganic chemical pesticides, within 5 years, impediments to this target and possible options that have arisen and that this report compares the relative environmental costs & benefits.*
  - d) *Within a review, the investigation of different possible management options, within different areas and ecosystems and a prioritisation of areas to be targeted.*
  - 50 e) *Possible cooperation with Universities for selecting waterway sites to monitor and test the impacts of using non organic chemicals, possibly as a research project as a case study.*

- f) *Investigation of further opportunities to make significant reductions in non-organic chemical use, for example, rate incentives for organic farmers and subsidising responsible non organic chemical use training for farmers.*
- g) *Investigation of using one park or open space within the Shire as a 'trial park' to engage community support and test non chemical methods.*

The development of the IWMS by Australian Wetland Consulting was overseen by an internal working group comprising staff from both the Sustainable Environment and Economic Planning and Infrastructure Services Directorates.

Consultation undertaken in preparing the draft strategy includes:

- Workshops and progress reports to the Biodiversity and Sustainability Committee
- Workshop with Landcare and Dunecare groups including:
  - Brunswick Heads Community Dunecare
  - Green and Clean Awareness team
  - New Brighton Dunecare
  - Suffolk Park Dunecare
  - Brunswick Valley Landcare
  - Bangalow Land and Rivercare
  - Goonengerry Landcare
  - Wilsons Creek/ Huonbrook Landcare
  - Byron Shire Chemical Free Group
- Direct consultation with Far North Coast Weeds
- Progress reports to Councils Executive Team

It is recommended that before reporting the draft Strategy to Council for consideration and public exhibition, that the draft Strategy be peer reviewed in accordance with Council resolution 13-621 to ensure its compliance and that a detailed costed implementation plan be prepared to inform Council's Financial Sustainability Plan.

#### **Committee Recommendation 5.1.1**

That the Biodiversity and Sustainability Advisory Committee note the report and support the allocation of \$40,000 from the Environmental Levy Reserve towards the Zero Emission Byron development of mitigation strategies.

#### **Management Comments**

In accordance with the Committee Recommendation above, advise that this recommendation was resolved at the 29 June 2016 Extraordinary meeting, Resolution 16-348. The remainder of the committee recommendations are supported by management and are provided in the attachment to this report.

#### **Financial Implications**

Costs to undertake the peer review and fully costed implementation plan are in the order of \$20,000. It is recommended that Council consider allocating funds to this in the quarterly budget review to be reported at the 25 August 2016 meeting.

#### **Statutory and Policy Compliance Implications**

As per the Reports listed within the Biodiversity and Sustainability Advisory Committee Meeting of 23 June 2016.

**Report No. 14.2      Report of the Heritage Advisory Committee Meeting held on 21 June 2016**

**Directorate:** Sustainable Environment and Economy  
**Report Author:** Shannon Burt, Director Sustainable Environment and Economy  
**File No:** I2016/745  
**Theme:** Ecology  
Development and Approvals

**Summary:**

The report provides the minutes of the Heritage Advisory Committee Meeting of 21 June 2016 for determination by Council.

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**RECOMMENDATION:**

1. That Council note the minutes of the Heritage Advisory Committee Meeting held on 21 June 2016.
2. That Council adopt the following Committee Recommendations:

**Report No. 5.1   Heritage Discussion Topics**  
File No: I2016/589

**Committee Recommendation 5.1.1**

That the Heritage Advisory Committee recommend to Council that the draft Byron Shire Heritage Strategy 2016-2019 be adopted with the following amendments:

- i. Under Heading No 1 *“Operate a Heritage Committee to provide community input to heritage matters in the Byron Shire Council Area”*  
  
Remove italics, in Action No 2, and Action No 6.
- ii. Under Heading No 7 *“Present Educational and Promotional Programs”*  
  
Add the following words to Action 1 *“Development the webpage to facilitate easy access to the community based heritage study and other information on Council website”*.
- iii. Under the Heading *“Introduction”*  
  
Check lines 10 - 20 in terms of the accuracy regarding the wording to traditional custodians of the land and make any changes as required
- iv. Under Heading No 2 *“Identify Heritage Items in the Byron Shire and list them in the Local Environmental Plan”*  
  
Action 1 check the wording in terms of appropriate local Aboriginal Land Council and make changes as required

**Committee Recommendation 5.1.2**

That the Heritage Advisory Committee top high 4 priorities identified from the draft Heritage Strategy 2016-2019 are as follows:

- No 7 *“Present Educational and Promotion Programs Education”*.

- **No 3 “ Appoint a Heritage Advisor to assist Council, the community and owners of listed Heritage Items, properties in Heritage Conservation Areas or potential items”.**
- **No 4 “Manage heritage in the Byron Shire area in a positive manner”.**
- **No 2 “Identify Heritage Items in the Byron Shire and list them in the Local Environmental Plan”.**

**Committee Recommendation 5.1.3:**

**That the Heritage Advisory Committee top ‘high’ actions identified from the draft Heritage Strategy 2016-2019 are as follows:**

- **Website heritage information and maps.**
- **Information pamphlet.**
- **Consider review of notification requirements of development applications.**
- **A forum aimed at planners, developers, real estate industry supported by media release.**
- **Consider street signage/plaque, to identify heritage conservation areas.**
- **SHI link to be placed on Council’s website.**

**Attachments:**

5     1     Minutes 21/06/2016 Heritage Advisory Committee, I2016/625

**Report**

The attachment to this report provides the minutes of the Heritage Advisory Committee Meeting of 21 June 2016 for determination by Council. The agenda for this meeting can be located on Council's website at:

[http://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2016/06/HER\\_21062016\\_AGN\\_540\\_AT.PDF](http://byron.infocouncil.biz/RedirectToDoc.aspx?URL=Open/2016/06/HER_21062016_AGN_540_AT.PDF)

The committee recommendations are supported by management and are provided in the attachment to this report.

**Financial Implications**

As per the Reports listed within the Heritage Advisory Committee Meeting of 21 June 2016.

**Statutory and Policy Compliance Implications**

As per the Reports listed within the Heritage Advisory Committee Meeting of 21 June 2016.



**REPORTS OF COMMITTEES - INFRASTRUCTURE SERVICES**

**Report No. 14.3      Report of the Belongil Catchment Advisory Committee Meeting held on 30 May 2016**

**Directorate:** Infrastructure Services  
**Report Author:** Peter Rees, Manager Utilities  
**File No:** I2016/614  
**Theme:** Community Infrastructure  
Waste and Recycling Services

**Summary:**

The attachment to this report provides the minutes of the Belongil Catchment Advisory Committee Meeting of 30 May 2016 for determination by Council.

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**RECOMMENDATION:**

1. That Council note the minutes of the Belongil Catchment Advisory Committee Meeting held on 30 May 2016.
2. That Council adopt the following Committee and Management Recommendation(s):

**Report No. 5.1   Belongil Catchment Management Plan Review of Actions**  
File No: I2016/522

**Committee Recommendation 5.1.1**

1. That Council develop and implement a water monitoring programme for the Belongil Catchment incorporating:
  - a) Actions 1, 3, 6, 9, 11, 22, 51, 55, 82, 96, 130, 131, 133, 135, 139, 144 as listed in Attachment 2 to today's Report 5.1
  - b) invitations to relevant local academic institutions such as Southern Cross University to support and add via student and academic projects
2. That Council receive reports via its Belongil Catchment Advisory Committee on the following:
  - a) a detailed communication and education plan based on the Plans and Strategies listed in section 2 'Purpose' of this Committee's Constitution and on combining Water, Sewer and Stormwater functions
  - b) a design for the Butler Street drain incorporating a natural channel shape and route, plus a wetlands filter system
  - c) a project plan for the Butler Street drainage upgrade, that work to coincide with the Byron Bay Bypass project
3. That Council notes Actions 29, 31, 32, 51, 80 listed in Attachment 2 to Report 5.1 in Committee Agenda for 30 May 2016 and receive a report via this Committee's next meeting on the opening strategy for the Belongil Estuary including:
  - a) DPI Water advice, preferably in person, at the Committee meeting
  - b) copies of:

- i) the "Belongil Estuary Mouth Opening Plan"
- ii) the Review of Environmental Factors of 2005
- iii) the current License in force until 2022
- iv) six-monthly monitoring reports to date "Byron Estuary Entrance Management Report"

4. That the Committee receive a report at its next meeting on the status of actions 5, 16 – 20, 25, 26, 29, 38 – 41, 43, 49 - 52, 147 – 154, as listed in Attachment 2 to today's Report 5.1
3. That Council adopt the following Committee and Management Recommendation(s):

**Report No. 5.2 Data Collection Belongil Drains Technical Note 4**

File No: I2016/539

**Committee Recommendation 5.2.1**

1. That the Committee note the report.
2. That the data logging programme in the Belongil drains is continued.
3. That Council instruct the operator collecting this data to check logger function monthly, so that malfunctions leading to loss of many months of data are avoided.
4. That survey is undertaken to determine the height to AHD of bores and hence new loggers 7 and 8.
5. Council investigate the costs and benefits of conducting a sewage effluent tracer study (stable isotopes or other appropriate method) to 'map' its flow through the upper Belongil catchment.
4. That Council adopt the following Committee and Management Recommendation(s):

**Report No. 5.3 Proposed Belongil Catchment Water Quality Test Programme**

File No: I2016/540

**Committee Recommendation 5.3.1**

**That Council undertake water quality sampling as follows for a period of 12 months, to be reviewed before it ends so that continuity is not broken:**

1. dry weather sampling monthly
2. event sampling as soon as possible after rain and flow commence, then daily during major events (especially after extended dry weather) down to a flow level to be determined, not exceeding 20 sample days per year
3. consideration of further sites at Clarkes Beach Lagoon, Clarkes Beach at the Cowper Street drain and Bangalow Road between Cooper and Mackay Streets
4. consideration of permanent loggers at key points
5. consideration of 'citizen sampling' data

**5. That Council adopt the following Committee and Management Recommendation(s):**

**Report No. 5.4 Belongil Swamp Drainage Union Issues**

File No: I2016/541

**Committee Recommendation 5.4.1**

- 1. That the Committee note the report.**
- 2. That the letter at Attachment 1 to the Agenda (E2016/27767) be amended as follows and issued as Resolved by Council on 19 May (Resolution 16-247) so that the meeting can take place in June 2016:**
  - a) in the first paragraph, change the last clause to "... and is therefore not operating in accordance with its obligations"**
  - b) in the third paragraph, advise the source of the "purpose" cited**

**Attachments:**

**5**

- 1 Minutes of the Belongil Catchment Advisory Committee Meeting 30/05/16, I2016/590**

**Report**

5 The attachment to this report provides the minutes of the Belongil Catchment Advisory Committee Meeting of 30 May 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 Belongil Catchment Advisory Committee Meeting of 30 May 2016.

**Statutory and Policy Compliance Implications**

20 As per the Reports listed within the Belongil Catchment Advisory Committee Meeting of 30 May 2016.

**Report No. 14.4      Report of the Community Infrastructure Advisory Committee Meeting held on 2 June 2016**

**Directorate:** Infrastructure Services  
**Report Author:** Tony Nash, Manager Works  
**File No:** I2016/621  
**Theme:** Community Infrastructure  
Local Roads and Drainage

**Summary:**

The attachment to this report provides the minutes of the Community Infrastructure Advisory Committee Meeting of 2 June 2016 for determination by Council.

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**RECOMMENDATION:**

1.    **That Council note the minutes of the Community Infrastructure Advisory Committee Meeting held on 2 June 2016.**

2.    **That Council adopt the following Committee and Management Recommendation:**

**Report No. 5.1   Strategic Asset Management Plan - General Fund**  
File No: I2016/140

**Committee Recommendation 5.1.1**

**That Council endorse the draft Strategic Asset Management Plan for the purpose of community consultation to support the planned Special Rate Variation (SRV) as identified in Council's Improvement Plan (CIP).**

3.    **That Council adopt the following Committee and Management Recommendation:**

**Report No. 5.2   Status Report for the 2015/16 Local Roads Capital Works Program**  
File No: I2016/516

**Committee Recommendation 5.2.1**

**That Council notes the successful implementation to date of the 2015/16 Local Roads Capital Works Program.**

**Attachments:**

1      Minutes Community Infrastructure Advisory Committee Meeting 02/06/16, I2016/601

**Report**

The attachment to this report provides the minutes of the Community Infrastructure Advisory Committee Meeting of 2 June 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>

The recommendations are supported by management and are provided in the attachment to this report.

**Financial Implications**

As per the Reports listed within the Community Infrastructure Advisory Committee Meeting of 2 June 2016.

**Statutory and Policy Compliance Implications**

As per the Reports listed within the Community Infrastructure Advisory Committee Meeting of 2 June 2016.

**Report No. 14.5      Report of the Water, Waste and Sewer Advisory Committee Meeting held on 2 June 2016**

**Directorate:** Infrastructure Services  
**Report Author:** Peter Rees, Manager Utilities  
**File No:** I2016/622  
**Theme:** Community Infrastructure  
Waste and Recycling Services

**Summary:**

The attachment to this report provides the minutes of the Water, Waste and Sewer Advisory Committee Meeting of 2 June 2016 for determination by Council.

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**RECOMMENDATION:**

1. That Council note the minutes of the Water, Waste and Sewer Advisory Committee Meeting held on 2 June 2016.

2. That Council adopt the following Committee and Management Recommendation:

**Report No. 5.1 STP Flow Data Report**  
File No: I2016/542

**Committee Recommendation 5.1.1**

That the report regarding STP Flow Data Report be noted.

3. That Council adopt the following Committee and Management Recommendation(s):

**Report No. 5.2 History and Future of Inflow and Infiltration in Byron Shire Council's Sewer Systems**

File No: I2016/543

**Committee Recommendation 5.2.1**

That Council receive reports via its Water, Waste & Sewer Advisory Committee, or similar, on:

- a) works to overcome inflow and infiltration as listed at the end of section 1.0 of Council's 'Final Project Review' of June 2010 on the 'Mullumbimby Sewerage System Inflow and Infiltration Programme PRP1 Integrated Strategy' including:
  - i. complete the work on the gravity system in catchments 4001 and 4003b
  - ii. continue with inspection of private assets
  - iii. implement routine investigation and repairs for both public and private infrastructure in our operational and maintenance activities
- b) results, if any, from later Pollution Reduction Programmes (PRP) including PRP2

- c) **Average Dry Weather Flow (ADWF) to Peak Wet Weather Flow (PWWF) ratios for:**
  - i. **the New Brighton sewer sub-catchment, for comparison of our local Low Pressure Pumping System (LPPS) with traditional gravity systems serving the Shire's other urban areas**
  - ii. **the Mullumbimby Public School (LPPS).**

**4. That Council adopt the following Committee and Management Recommendation(s):**

**Report No. 5.3 Main Arm Reuse Options**

File No: I2016/544

**Committee Recommendation 5.3.1**

- 1. **That the Committee note the report regarding Main Arm Reuse Options.**
- 2. **That Council receive a report via its Water, Waste and Sewer Advisory Committee, or similar, on reuse supplied to Byron Bay Golf Course and amounts irrigated.**
- 3. **That consideration be given to potential users along Myocum Road.**

**5. That Council adopt the following Committee and Management Recommendation:**

**Report No. 5.4 Container Deposit Scheme (CDS) Information Session**

File No: I2016/548

**Committee Recommendation 5.4.1**

**That Council note that the Water Waste and Sewer Advisory Committee was presented information regarding a container deposit scheme.**

**6. That Council adopt the following Committee and Management Recommendation:**

**Report No. 5.5 Scope of the Water, Waste and Sewer and Related Committees**

File No: I2016/549

**Committee Recommendation 5.5.1**

**That Council note the Water, Waste and Sewer Advisory Committee was provided with information about the recent report to Council reviewing all Committees.**

5

**Attachments:**

- 1 Minutes Water, Waste and Sewer Advisory Committee Meeting 02/06/16, I2016/600



**Report**

The attachment to this report provides the minutes of the Water, Waste and Sewer Advisory Committee Meeting of 2 June 2016 for determination by Council. The agenda for this meeting can be located on Council's website at:

5

<http://www.byron.nsw.gov.au/meetings>

The Committee recommendations are supported by management and are provided in the attachment to this report.

10

**Financial Implications**

As per the Reports listed within the Water, Waste and Sewer Advisory Committee Meeting of 2 June 2016.

15

**Statutory and Policy Compliance Implications**

As per the Reports listed within the Water, Waste and Sewer Advisory Committee Meeting of 2 June 2016.

**Report No. 14.6      Report of the Transport Advisory Committee Meeting held on 14 June 2016**

**Directorate:** Infrastructure Services  
**Report Author:** Helen Waldron, EA Infrastructure Services  
**File No:** I2016/685  
**Theme:** Community Infrastructure  
Roads and Maritime Services

**Summary:**

The attachment to this report provides the minutes of the Transport Advisory Committee Meeting of 14 June 2016 for determination by Council.

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**RECOMMENDATION:**

**1. That Council note the minutes of the Transport Advisory Committee Meeting held on 14 June 2016.**

**2. That Council adopt the following Committee and Management Recommendation(s):**

**Report No. 5.1 Update of Bikeways Plan**  
**File No: I2016/626**

**Committee Recommendation 5.1.1**

**That Council note:**

- 1. That the Transport Advisory Committee is reviewing Council's Bike Plan, as adopted in August 2008.**
- 2. That the review include:**
  - a) updating of maps and tables within the current, adopted Plan**
  - b) Resolution 16-137 of Ordinary Meeting 7 April 2016**
  - c) consideration of on-road options more often, due to affordability**
  - d) consideration of route options between Mullumbimby and Brunswick Heads, including:**
    - i) on-road**
    - ii) off-road (beside-the-road)**
    - iii) non-road routes (on the floodplain)**
    - iv) #79 on Table 6**
  - e) consideration of the following routes in Ocean Shores:**
    - i) Balemo Drive (#15 on Table 6)**
    - ii) Identification of 'squeeze points' etc on the on-road advisory routes #25 to #30 on Table 6**
    - iii) #12 on Table 6 – Kolora Way Bridge and whether that upgrade is still a priority**

- f) **road width options ( e.g. cycle rideable hard shoulder) and their applicability to our road hierarchy, including conflicts between road widening and environmental values in the road reserve.**

**Attachments:**

- 5    1    Minutes Transport Advisory Committee Meeting 14/06/16, I2016/628

**Report**

5 The attachment to this report provides the minutes of the Transport Advisory Committee Meeting of 14 June 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 Transport Advisory Committee Meeting of 14 June 2016.

**Statutory and Policy Compliance Implications**

As per the Reports listed within the Transport Advisory Committee Meeting of 14 June 2016.

**Report No. 14.7      Report of the Belongil Catchment Advisory Committee Meeting held on 27 June 2016**

**Directorate:** Infrastructure Services  
**Report Author:** Peter Rees, Manager Utilities  
**File No:** I2016/736  
**Theme:** Community Infrastructure  
Local Roads and Drainage

**Summary:**

The attachment to this report provides the minutes of the Belongil Catchment Advisory Committee Meeting of 27 June 2016 for determination by Council.

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**RECOMMENDATION:**

1. That Council note the minutes of the Belongil Catchment Advisory Committee Meeting held on 27 June 2016.

2. That Council adopt the following Committee and Management Recommendation(s):

**Report No. 5.1 Belongil Creek Opening Strategy Overview**  
File No: I2016/678

**Committee Recommendation 5.1.1**

**That Council:**

1. recognise that the mouth of Belongil Creek being 'open' allows ocean energy into the Estuary and can increase flood levels in low-lying areas of the Belongil catchment, in comparison with the mouth being 'closed'
2. fund the preparation of a long term opening strategy for Belongil Creek in accordance with the report to the Belongil Catchment Advisory Committee meeting of 29 June 2016

3. That Council adopt the following Committee and Management Recommendation:

**Report No. 5.2 Status of Actions**  
File No: I2016/681

**Committee Recommendation 5.2.1**

**That the report to the Belongil Catchment Advisory Committee outlining the status of actions is noted.**

**Attachments:**

- 1 Minutes Belongil Catchment Advisory Committee Meeting 27/06/16, I2016/688

**Report**

5 The attachment to this report provides the minutes of the Belongil Catchment Advisory Committee Meeting of 27 June 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 Belongil Catchment Advisory Committee Meeting of 27 June 2016.

**Statutory and Policy Compliance Implications**

20 As per the Reports listed within the Belongil Catchment Advisory Committee Meeting of 27 June 2016.

**Report No. 14.8**      **Report of the Local Traffic Committee Meeting held on 8 June 2016**  
**Directorate:**      Infrastructure Services  
**Report Author:**      Shannon Manning, Traffic and Transport Administration Assistant  
**File No:**      I2016/761  
5 **Theme:**      Community Infrastructure  
                 Local Roads and Drainage

**Summary:**

- 10 This report contains the recommendations of the Local Traffic Committee (LTC) meeting as held on the 8 June 2016.
- 

**RECOMMENDATION:**

1. That Council note the minutes of the Local Traffic Committee Meeting held on 8 June 2016.
2. That Council adopt the following Committee Recommendation(s):

**Report No. 6.1 Road closure, Lighthouse Road - Byron Bay Lighthouse Run, Sunday  
23 October 2016**

File No: I2016/384

1. That the 10km Byron Lighthouse Fun Run to be held Sunday 23 October 2016, which includes the temporary road closures below, be endorsed between these times:
  - a) Lighthouse Road between Brooke Drive (at The Pass) and Palm Valley Way (entry to Wategos) between the hours of 7:00am and 08:00am
  - b) Clarkes Beach Car Park between the hours of 6:00am and 10:00am
  - c) Lawson Street, from Massinger Street / Lighthouse Road intersection to the caravan park, between the hours of 7:00am and 7:15am
2. That the approval provided in Part 1 is subject to:
  - a) NSW Police approval is obtained;
  - b) implementation of the approved Traffic Management 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
- ix) The attainment (by the event proponent) of Cape Byron Headland Trust written concurrence of the event
- x) Consultation with the Byron Bay Beach Cafe and North Coast Holiday Parks Clarkes Beach
- xi) consultation with Council's Works Team regarding status of the construction of the roundabout at Lawson / Massinger Streets / Lighthouse Road

**3. That Council adopt the following Committee Recommendation(s):**

**Report No. 6.2 Coorabell Public School Bus Route - Request for Upgrade and Maintenance at 3 Bus Stops at Federal, Ewingsdale, Mullumbimby**

File No: I2016/506

1. That the Local Traffic Committee receive a further report on the following three locations proposed as bus zones (school days only 07:45 - 09:15 and 15:00 - 16:15), subject to design and consultation with the relevant bus companies:
  - a) Lot 3 Federal Drive (opposite Australia Post)
  - b) 61 Myocum Road, Ewingsdale
  - c) 1149 Myocum Road, Myocum
2. That each location be investigated and any improvements be reviewed with assistance from the Coorabell Public School and the relevant bus service
3. That the bus zone at 61 Myocum Road, Ewingsdale be incorporated into the design of Myocum Road Pavement Rehabilitation Project, expected to start in 2016 / 2017

**4. That Council adopt the following Committee Recommendation(s):**

**Report No. 6.3 Splendour, 21 July 2016 - Traffic Management Plan**

File No: I2016/507

1. That the Splendour in the Grass Music Festival (Friday, 22 July 2016 to Sunday 24 July 2016) temporary traffic management plan and regulatory changes be endorsed, subject to NSW Police approval.
2. The attached Traffic Control Plan and Traffic Management Plan be noted.



3. That the Traffic Management Plan be implemented as approved.
4. That the event organiser:
  - i) advertise 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) provide a copy of the advert for Council's web page
  - iii) inform 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) liaise with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event
  - vi) consult with emergency services and any identified issues be addressed
  - vii) hold \$20m public liability insurance cover which is valid for the event
  - viii) pay Council's Road Event application fee prior to the event
  - ix) hold a event debrief within a month following the festival which includes but is not limited to Council, RMS and Police
5. That Council adopt the following Committee Recommendation(s):

**Report No. 6.4 Request for No Stopping - Rural Fire Service Station, Gordon St, Mullumbimby**

File No: I2016/509

  1. That 'No Parking – Authorised Vehicles Excepted' be signed on Gordon Street, Mullumbimby, commencing from 0 m to 15 m covering the Mullumbimby Rural Fire Service (RFS) Station driveway
  2. That RFS Mullumbimby be advised that RFS-authorized vehicles must be identified by displaying their standard RFS permit on the dashboard of approved vehicles and that vehicles which do not display the RFS permit will be subject to enforcement

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**6. That Council adopt the following Committee Recommendation(s):****Report No. 6.5 Request for Speed Reviews - Wilsons Creek Road**

File No: I2016/503

**That Wilsons Creek Road be referred to the RMS for a speed zone review.**

**7. That Council adopt the following Committee Recommendation(s):****Report No. 6.6 Road Event - Monthly Criterium Cycle Races, Industrial Estate,  
Request for 3 Year agreement from September 2016**

File No: I2016/505

- 1. That the Byron Bay Cycle Club's Criterium Racing circuit at Byron Bay Industrial Estate, to be held on the first Sunday of each month from 4 September 2016 to the last Sunday in August 2019, be endorsed between these times:**
  - a) Centennial Circuit between Bayshore Drive and Wollongbar Drive, Tasman Way, Wollongbar Drive and Brigantine Street (between Centennial Circuit and Wollongbar Drive) between the hours of 06:00 and 09:00**
- 2. That the approval provided in Part 1 is subject to NSW Police approval being obtained**
- 3. That the attached Traffic Control Plan and Traffic Management Plan be noted**
- 4. That the Traffic Management Plan be implemented as approved**
- 5. That the event organiser:**
  - i. provide wording for Council's website noting the impact of the event and including 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. inform 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. arrange for private property access and egress affected by the event**
  - iv. liaise with bus and taxi operators and ensuring arrangements are made for provision of services during conduct of the event**
  - v. consult with emergency services and any identified issues be addressed**
  - vi. hold \$20m public liability insurance cover which is valid for the event**
  - vii. pay Council's Road Event application fee prior to the event**

**8. That Council adopt the following Committee Recommendation(s):**

**Report No. 6.7 Review of Signage location and enforcement - Magic Bus**

File No: I2016/512

**That the bus zone on Lighthouse Road near the intersection of Tallow Beach Road (as pictured in the Agenda) be extended and signage moved a few metres westward to finish as close as possible to the power pole near the driveway.**

**9. That Council adopt the following Committee Recommendation(s):**

**Report No. 6.8 Request for No Standing signs on Shirley Street, Byron Bay (corner of Dryden St)**

File No: I2016/531

**That the issue of site distance at intersections on Shirley Street Byron Bay, from Kendall to Wordsworth Street, be reviewed.**

**10. That Council adopt the following Committee Recommendation(s):**

**Report No. 7.1 New Roundabout and speed zone, Tweed Valley Way, Yelgun**

File No: I2016/510

**That the RMS be requested to review speed limits on Tweed Valley Way / Brunswick Valley Way at the motorway link road intersection.**

**11. That Council adopt the following Committee Recommendation(s):**

**Report No. 7.2 Development Applications for Local Traffic Committee Advice**

File No: I2016/534

**That Council notes that the Local Traffic Committee provided no traffic advice to the Development Engineers regarding relevant Development Applications at their meeting held 8 June 2016.**

**12. That Council adopt the following Committee Recommendation(s):**

**Report No. 8.1 Event - Byron Bay Writers Festival & Ideas Market from 5 to 8 August 2016**

File No: I2016/593

- 1. That the temporary traffic management plan for the Byron Bay Writers Festival and Ideas Market, to be held from Friday 5 August to Sunday 7 August 2016, be endorsed, subject to NSW Police approval.**
- 2. That the attached Traffic Management Plan (and Traffic Control Plans provided on 7 June 2016) be noted.**
- 3. That the Traffic Management Plan be implemented as approved.**
- 4. That the event organiser:**
  - i) advertise 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) provide a copy of the advert for Council's website**
- iii) inform 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) arrange for private property access and egress affected by the event**
- v) liaise with bus and taxi operators and ensure arrangements are made for provision of services during conduct of the event**
- vi) consult with emergency services and any identified issues be addressed**
- vii) hold \$20m public liability insurance cover which is valid for the event; and**
- viii) pay of Council's Road Event application fee prior to the event.**

**Attachments:**

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- 1 Minutes of Local Traffic Committee Meeting held 8/6/16, I2016/592

**Report**

The attachment to this report provides the minutes of the Local Traffic Committee Meeting of 8 June 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>

The committee recommendations are supported by management and are provided in the attachment to this report.

**Financial Implications**

As per the Reports listed within the Local Traffic Committee Meeting of 8 June 2016.

**Statutory and Policy Compliance Implications**

As per the Reports listed within the Local Traffic Committee Meeting of 8 June 2016.

**CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES**

**Report No. 16.1**                      **CONFIDENTIAL - Grant 5-year Market Licences for Preferred Proposals**

**Directorate:**                      Corporate and Community Services  
**Report Author:**                Trish Kirkland, Manager Governance Services  
    Paula Telford, Leasing and Licensing Coordinator  
**File No:**                            I2016/737  
**Theme:**                            Economy  
    Economic Development

**Summary:**

The new Sustainable Community Markets Policy requires that all future Market Licence Agreements be awarded by an open and competitive process.

The Request for Proposal to grant new five year market licences to operate farmers and artisan markets on Council Public Land was publically advertised from 5 May 2016 to 25 May 2016, with the call for proposals closing at 2pm on 22 June 2016.

Proposals were assessed by an independent evaluation panel between 23 June 2016 and 25 July 2016 in accordance with the evaluation plan. This report recommends that the panel's preferred proposals are granted 5-year Market Licences.

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**RECOMMENDATION:**

1. That pursuant to Section 10A(2)(c) and (d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Grant 5-year Market Licences for Preferred Proposals.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
  - a) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
  - b) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:
 

disclosure could prejudice the Council's position in finalising the long term licence agreements with the successful proponents.

**OR, ALTERNATIVELY WHERE THE MEETING IS NOT PROPOSED TO BE CLOSED:**

**RECOMMENDATION:**

1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, Grant 5-year Market Licences for Preferred Proposals are to be treated as confidential as they relate to matters specified in s10A(2)(c) and s10A(2)(d)i of the Local Government Act 1993.
2. That Council adopt the recommendation set out on the final page of the Report.

**Attachments:**

- 1 Confidential - Signed Memo from General Manager consideration of objections received from s47A public notice of proposed 5 year licence (MarketsRFP\_2016), E2016/28973
- 5 2 Confidential - Draft Final Evaluation Report: RPF 5-year Market Licence (MarketsRFP\_2016), E2016/65900

**Report No. 16.2                      CONFIDENTIAL - Sale of Operational Land - Periwinkle Children's Centre Inc**

**Directorate:** Corporate and Community Services

**Report Author:** Mark Arnold, Director Corporate and Community Services

**File No:** I2016/746

**Theme:** Society and Culture  
Children's Services

**Summary:**

Council under its adopted 2015/16 Financial Sustainability Plan has a strategic objective of reviewing its operational land holdings and rationalising its portfolio of properties to promote financial sustainability.

In consultation with the Management Committee for the Periwinkle Children's Centre Inc, staff have been exploring the options for the disposal and sale of the Operational Land at 5 Sunrise Boulevard Byron Bay upon which the Periwinkle Children's Centre buildings are located to the Management Committee.

With the expiry of the previous lease for the land on 31 December 2016, a further twelve (12) month lease was granted to allow these options to be explored, which included Council obtaining a valuation for the land and the negotiation of a contract of sale for disposal of Operational Land at 5 Sunrise Boulevard Byron Bay with the Periwinkle Children's Centre Inc Management Committee.

Negotiations have reached a stage where a contract of sale has been agreed between the parties and could be executed subject to a Resolution of Council.

This report is provided to Council to consider and authorise the sale of the property.

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**RECOMMENDATION:**

1. **That pursuant to Section 10A(2)(c) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Sale of Operational Land - Periwinkle Children's Centre Inc.**
2. **That the reasons for closing the meeting to the public to consider this item be that the report contains:**
  - a) **information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business**
3. **That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:**

**disclosure could adversely impact Council's position in finalising the contract of sale with Periwinkle Children's Centre Inc.**



**CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES**

**Report No. 16.3**      **CONFIDENTIAL - Tender 2015-0035 Residential Subdivision Works 70-90 Station Street Mullumbimby Award Recommendation Report**

**Directorate:**      Infrastructure Services  
**Report Author:**      Evan Elford, Contract Engineer  
**File No:**      I2016/742  
**Theme:**      Community Infrastructure  
                  Projects and Commercial Opportunities

**Summary:**

On 8 October 2015 the General Manager provided authorisation to prepare and advertise tenders for Residential Subdivision Construction Works at 70 – 90 Station Street, Mullumbimby.

The tender was readvertised 14 June 2016 following the unsuccessful previous tender and closed on 30 June 2016.

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulation 2005.

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**RECOMMENDATION:**

1. That pursuant to Section 10A(2)(c) and (d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Tender 2015-0035 Residential Subdivision Works 70-90 Station Street Mullumbimby Award Recommendation Report.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
  - a) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
  - b) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

Disclosure could adversely impact Council's position in the upcoming negotiations.

**OR, ALTERNATIVELY WHERE THE MEETING IS NOT PROPOSED TO BE CLOSED:**

**RECOMMENDATION:**

1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, Tender 2015-0035 Residential Subdivision Works 70-90 Station Street Mullumbimby Award Recommendation Report are to be treated as confidential as they relate to matters specified in s10A(2)(c) and s10A(2)(d)i of the Local Government Act 1993.
2. That Council adopt the recommendation set out on the final page of the Report.

**Report No. 16.4      CONFIDENTIAL - Construction of the Byron Bay Urban Recycled Water Scheme Expansion**

**Directorate:** Infrastructure Services  
**Report Author:** Peter Rees, Manager Utilities  
**File No:** I2016/765  
**Theme:** Community Infrastructure  
 Sewerage Services

**Summary:**

A review of non drinking water uses in inner Byron Bay identified an opportunity to create a new recycled water supply area by expanding the Byron Bay Urban Recycled Water Scheme (BBURWS). Public toilet flushing and irrigation demands between the Recreation Grounds, Clarkes Beach and the CBD which are currently supplied with potable water could be supplied with recycled water if connected to the BBURWS via a new ring main. Toilet flushing in private premises such as hotels could also be supplied if connected.

A concept design and cost estimate was developed for the BBURWS expansion project in an initial scoping study. This was subsequently refined and documented further through a detailed design and specification. The resulting project consists of 1.8 km of DN90 ring main between two connections to the existing BBURWS trunk main at the Recreation Grounds and Railway Park, and 600 m of DN90/DN40 branches off the new ring main to toilet blocks at the Recreation Grounds, Clarkes Beach, Fish Heads Restaurant, First Sun Holiday Park and Railway Park.

The purpose of this report is to present to Council the outcome of a public tender for the construction of the BBURWS expansion.

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulation 2005.

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**RECOMMENDATION:**

1. That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Construction of the Byron Bay Urban Recycled Water Scheme Expansion.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
  - a) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:
  - (a) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

**OR, ALTERNATIVELY WHERE THE MEETING IS NOT PROPOSED TO BE CLOSED:**

**RECOMMENDATION:**

1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, Construction of the Byron Bay Urban Recycled Water Scheme Expansion are to be treated as confidential as they relate to matters specified in s10A(2)(d)i of the Local Government Act 1993.

**2. That Council adopt the recommendation set out on the final page of the Report.**

**Attachments:**

5 1 Confidential - BBURWS Expansion Tender Evaluation Report 2016-0010, E2016/64511

**Report No. 16.5      CONFIDENTIAL - Tender Evaluation Report 2016-0011 Provision of Surf Life Saving Services for Byron and Tweed Shire Councils**

**Directorate:** Infrastructure Services

**Report Author:** Michael Matthews, Manager Open Space and Resource Recovery

**File No:** I2016/767

**Theme:** Community Infrastructure  
Open Space and Recreation

**Summary:**

The Request for Tender (RFT) sought tenders from suitably qualified and experienced parties for the Provision of Surf Life Saving Services for Byron and Tweed Shire Council.

The successful tenderer will be required to provide surf life saving services at beaches located in the Tweed and Byron Shires for a period of five years subject to satisfactory performance by the successful Tenderer, as determined by Byron and Tweed Shire Councils.

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulation 2005.

**RECOMMENDATION:**

1. That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report **CONFIDENTIAL - Tender Evaluation Report 2016-0011 Provision of Surf Life Saving Services for Byron and Tweed Shire Councils**.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
  - a) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:

Disclosure could adversely impact Council's position in the upcoming negotiations.

**OR, ALTERNATIVELY WHERE THE MEETING IS NOT PROPOSED TO BE CLOSED:**

**RECOMMENDATION:**

1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, **CONFIDENTIAL - Tender Evaluation Report 2016-0011 Provision of Surf Life Saving Services for Byron and Tweed Shire Councils** are to be treated as confidential as they relate to matters specified in s10A(2)(d)i of the Local Government Act 1993.
2. That Council adopt the recommendation set out on the final page of the Report.

**Attachments:**

- 1 Confidential - Report 04/08/2016 Council Tender Evaluation Report 2016-0011 Provision of Surf Life Saving Services for Byron and Tweed Shire Councils Confidential, I2016/767

**Report No. 16.6      CONFIDENTIAL - Contract 2016-0001 Paid Parking and Beach Locker Cash Collection Outcome**

**Directorate:** Infrastructure Services

**Report Author:** Tony Nash, Manager Works  
James Brickley, Manager Finance  
Bronwyn Challis, Strategic Procurement Co-ordinator

**File No:** I2016/773

**Theme:** Community Infrastructure  
Local Roads and Drainage

**Summary:**

Council at its Ordinary Meeting held 19 May 2016 considered report 16.1 '*CONFIDENTIAL – Evaluation of Paid Parking and Beach Collection Tenders 2016-0001*'. Following Council's consideration, Council resolved through resolution **16-248** not to accept any tenders. Council also resolved to delegate to the General Manager to conduct negotiations on Council's behalf and report the outcome of those negotiations to Council. This report is to advise Council the outcome of those negotiations.

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**RECOMMENDATION:**

1. That pursuant to Section 10A(2)(c) and (d)ii of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the report Contract 2016-0001 Paid Parking and Beach Locker Cash Collection Outcome.
2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
  - a) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
  - b) information that would, if disclosed, confer a commercial advantage on a competitor of the council
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:
 

Disclosure would reveal commercial information supplied by potential contractors Council has been negotiating with which could prejudice Council entering into a contract.

**OR, ALTERNATIVELY WHERE THE MEETING IS NOT PROPOSED TO BE CLOSED:**

**RECOMMENDATION:**

1. That pursuant to Section 11(3) of the Local Government Act, 1993, resolve that the Annexures to the report, Tender 2015-0035 Residential Subdivision Works 70-90 Station Street Mullumbimby Award Recommendation Report are to be treated as confidential as they relate to matters specified in s10A(2)(c) and s10A(2)(d)i of the Local Government Act 1993.
2. That Council adopt the recommendation set out on the final page of the Report.

**Attachments:**

- 1 Confidential - Referee Checks for T2016-0001 Paid Parking and Beach Locker Cash Collection, E2016/63425