



Byron Shire Council



Agenda

Ordinary Meeting

Thursday, 27 October 2016

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

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

Ken Gainger
General Manager

CONFLICT OF INTERESTS

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

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

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

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

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

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

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

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

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the person's spouse;
- (b) the spouse or de facto partners of the person or of a person referred to in paragraph (a)

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

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

Disclosure and participation in meetings

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

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

Participation in Meetings Despite Pecuniary Interest (S 452 Act)

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

Non-pecuniary Interests - Must be disclosed in meetings.

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

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

RECORDING OF VOTING ON PLANNING MATTERS

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

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

BYRON SHIRE COUNCIL

ORDINARY MEETING

BUSINESS OF ORDINARY MEETING

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 Ordinary Meeting held on 6 October 2016

7. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS

8. MAYORAL MINUTE

8.1 2016 NSW Coastal Conference5

9. NOTICES OF MOTION

Nil

10. PETITIONS

11. SUBMISSIONS AND GRANTS

12. DELEGATES' REPORTS

13. STAFF REPORTS

Corporate and Community Services

13.1	Mayor and Councillors Payment of Expenses and Provision of Facilities Policy	7
13.2	Council Investments September 2016.....	11
13.3	Draft 2015/2016 Financial Statements	17
13.4	IP&R Review Requirements Post 2016 Council Election and Incorporation of Disability Inclusion.....	25

Sustainable Environment and Economy

13.5	PLANNING - 26.2015.6.1 Planning Proposal to amend Byron LEP 1988 - West Byron	29
13.6	PLANNING - Draft Byron DCP 2014 - Chapter E8 West Byron Urban Release Area - Submissions Report	35
13.7	PLANNING - 26.2015.5.1 Planning Proposal for Short Term Rental Accommodation - Update on LEP Amendment.....	39
13.8	PLANNING - Development Application 10.2016.254.1 - Secondary Dwelling at 6 Bayview Drive Goonengerry	44
13.9	PLANNING - 10.2016.347.1 Alterations and Additions to Existing Amenity Block (Suffolk Beach Front Holiday Park) at 143 Alcorn Street Suffolk Park	60

BYRON SHIRE COUNCIL

ORDINARY MEETING

13.10	Report of the Planning Review Committee Meeting held on 13 October 2016.....	72
13.11	Byron Bay Town Centre Masterplan Leadership Team	74

Infrastructure Services

13.12	Property NSW Intended Sale of Lot 60 DP 817888 Beech Rd, Suffolk Park - Community Implications of pending disposal.....	77
-------	----------------------------------------------------------------------------------------------------------------------------	----

14. QUESTIONS WITH NOTICE

Nil

15. CONFIDENTIAL REPORTS

Infrastructure Services

15.1	CONFIDENTIAL - Tender 2016-0025 Byron Resource Recovery Centre Plant Hire Evaluation Recommendation	83
------	--------------------------------------------------------------------------------------------------------------	----

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.

MAYORAL MINUTE

Mayoral Minute No. 8.1 2016 NSW Coastal Conference
File No: I2016/1087

I move that Council appoint Crs _____ as its delegates to attend the 25th NSW Coastal Conference 2016 to be held in Coffs Harbour from 9-11 November 2016.

Attachments:

- 1 2016 NSW Coastal Conference Program Coffs Harbour 9-11 November 2016, E2016/92009

Background Notes:**25th NSW Coastal Conference**

The 25th NSW Coastal Conference will be held at Novotel Pacific Bay Resort at Coffs Harbour from 9-11 November 2016 and is to be hosted by Coffs Harbour City Council.

- The Annual NSW Coastal Conference celebrates its "25th Anniversary" and is the country's longest running coastal management conference. The conference will bring together over 220 delegates from around Australia who are interested in or working within the field of coastal and estuary management research, education and service provision and policy. As well as representatives from government, user groups and community volunteer organisations.

The 25th NSW Coastal Conference will be held in Coffs Harbour, on the mid north coast of NSW.

- Past conferences have been held in Forster (2015), Shoalhaven (2014), Port Macquarie (2013), Kiama (2012), Tweed (2011), Batemans Bay (2010), Ballina (2009), Wollongong (2008), Yamba (2007), Coffs Harbour (2006) and Narooma (2005).

The three day event is comprised of plenary sessions, concurrent sessions, field trips (addressing some of the local coastal, estuary and marine management issues), networking events and the Annual NSW Coastal Management Awards.

2016 also marks 25 years of the Solitary Islands Marine Park and the NSW Coastal Conference will be acknowledging and celebrating this milestone.

For further information see the website (www.coastalconference.com).

Approximate costs per Councillor

Conference Registration	Regular Registration (after 23 September)
Full Registration Includes all Conference Sessions & Social Functions	\$875
Accommodation (based on 3 nights @ \$149/night)	Approx \$447
Travel expense (based on 480km @ up to 78c per km)	Approx \$374
Total per delegate	Approx \$1,696

There is \$15,103.52 remaining in the Councillors Conference budget for 2016/17 to meet the registration, travel and accommodation expenses for the appointed delegates.

Legal and Policy Implications:

- 5 In accordance with Clause 8.4.1 of Council's Policy 14/010 Mayor and Councillors Payment of Expenses and Provision of Facilities *"A resolution of Council is required to authorise attendance of Councillors at...Any other discretionary conference, seminar or training."*
- 10 Clause 8.2.1 details the Conferences and Seminars that may be attended by Councillors.
- Clause 8.2.1 reads as follows:
- 15 *"8.2.1. The conferences, seminars, workshops, courses and similar to which this policy applies shall generally be confined to:*
- a) *Local Government Association Annual (LGA and Australian local Government Association (ALGA) Conferences;*
 - 20 b) *Special "one-off" conferences called or sponsored by or for LGA and/or ALGA on important issues;*
 - c) *Annual conferences and congresses of the major professions in local government;*
 - 25 d) *Australian Sister Cities Conferences;*
 - e) *Regional Organisation of Councils Conferences*
 - 30 f) *Conferences which advance the professional development of elected members in their role as Councillors;*
 - g) *Any meetings or conferences of organisations or bodies on which a Councillor of the Council may be elected, or appointed to be, a delegate or member of the Council or the LGA.*
 - 35 h) *Seminars which further the training and development efforts of the Council and within the budget framework."*

40 **Signed: Cr Simon Richardson**

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES**Report No. 13.1 Mayor and Councillors Payment of Expenses and Provision of Facilities Policy****Directorate:** Corporate and Community Services**Report Author:** David Royston-Jennings, Corporate Governance and Strategic Planning Officer**File No:** I2016/980**Theme:** Corporate Management
Councillor Services**Summary:**

Section 252 of the Local Government Act 1993 (LG Act) requires Council, within the first 12 months of each term of a council, to adopt a Policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor and the other councillors in relation to discharging the functions of civic office.

A council must comply with this section when proposing to adopt a policy in accordance with Section 252(1) even if the council proposes to adopt a policy that is the same as its existing (s253(5)).

RECOMMENDATION:

1. That in accordance with Section 252 of the Local Government Act 1993, Council adopt the amended Policy Mayor and Councillors Payment of Expenses and Provision of Facilities as shown at Attachment 1 (E2016/92159).

2. That in accordance with Section 253(3) of the Local Government Act 1993, Council is of the opinion that the proposed amendments are not substantial, and that public notice of a proposed amendment to Policy Mayor and Councillors Payment of Expenses and Provision of Facilities is not required.

Attachments:

1 Draft Amended Mayor and Councillors Payment of expenses and provision of facilities to Ordinary Meeting 27 10 16, E2016/92159

Report

In accordance with Section 252 of the LG Act, Council, within the first 12 months of each term of a council, is to adopt a Policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor and the other councillors in relation to discharging the functions of civic office.

Staff, in reviewing the Policy, have recommended for operational efficiency that clause 6.2.3 regarding computer hardware (including laptops, tablets and smartphones), printer, software and services be amended as follows:

Original	
6.2.3 Computer hardware (including laptops, tablets and smartphones), printer, software and services	
<ul style="list-style-type: none"> a) maximum of \$2,700 (per Mayor/Councillor) in the first year only for term of office, for initial purchase of equipment, software licenses and line installation as deemed necessary for business paper distribution, to work with documents supplied by Council and for communications. b) maximum of \$1,000 (per Mayor/Councillor) in the either the second or third year of office, for purchase of equipment, software licenses and line equipment for the purposes stated in a) above; c) maximum of \$1,000 (total for all Councillors including Mayor) per annum for consumables and protective covers or carry case for equipment purchased. d) maximum of \$2,000 (total for all Councillors including Mayor) per annum for services (backup support) provided by hardware supplier/local providers. 	
Proposed Amendment	
6.2.3 Computer hardware (including laptops, tablets and smartphones), printer, software and services	
<ul style="list-style-type: none"> a) maximum of \$3,700 (per Mayor/Councillor) in the first year only for term of office, for initial purchase of equipment, software licenses, consumables, protective covers or carry case for equipment purchased and line installation as deemed necessary for business paper distribution, to work with documents supplied by Council and for communications. b) maximum of \$2,000 (per Mayor/Councillor) for both the second or third year of office, for purchase of equipment, software licenses, consumables and protective covers or carry case for equipment purchased and line equipment for the purposes stated in a) above; c) maximum of \$1,000 (per Mayor/Councillor)) in the fourth year of office per annum for consumables and protective covers or carry case for equipment purchased. d) maximum of \$2,000 (total for all Councillors including Mayor) per annum for services (backup support) provided by hardware supplier/local providers. 	

Additionally, staff have also recommended that clause 7.2.17 be updated as follows to reflect the operational responsibilities performed by the Corporate Governance team:

Original
<p>7.2.17 Secretarial Service - including typing, photocopying, printing and postage for the following purposes:-</p> <ul style="list-style-type: none"> a) Initiating correspondence to, answering correspondence received from residents/ratepayers, Members of Parliament, Government Departments, other local authorities, other Councillors, local government related bodies and organisations, the media or the general public in relation to the business of the Council or local government. b) Replying to invitations to attend functions/gatherings received in their capacity as a Councillor. c) Communications to Councillors and Council's staff on official business.
Proposed Amendment
<p>7.2.17 Support services:</p> <ul style="list-style-type: none"> a) Publishing council information, including business papers, memos and workshop presentations which is accessible to Councillors via the web or tablet application b) Coordination of the shared Councillors' Diary c) Conference registration d) Expense reimbursement e) Catering for meetings and workshops f) Provision of stationery

Staff have also recommended minor amendments and alterations to the Policy, which can be reviewed as tracked changes in Attachment 1 (E2016/91066).

- 5 If the Policy is adopted with just the proposed staff amendments, Section 253(3) of the Local Government Act (full section shown at Statutory and Policy Compliance Implications) states that public notice is not required if Council is of the opinion that the proposed amendments are not substantial. This is the recommendation to Council but should Councillors wish to make further amendments to the Policy, public notice of the amendments may be required, depending on the level of change.

Financial Implications

- 15 The 2016/2017 Budget Estimates contains the following allocations to fund the requirements of this policy:

<i>Item</i>	<i>2016/2017 Budget</i> \$
<i>Travelling Expenses</i>	17,500
<i>Catering</i>	15,500
<i>Conferences</i>	19,300
<i>Telephones</i>	15,500
<i>Training</i>	10,600
<i>Civic Expenses</i>	11,300
<i>Carers Expenses</i>	3,100
<i>Support Services</i>	2,000
<i>Consumables</i>	1,500
<i>Councillor Equipment</i>	30,000

<i>Item</i>	<i>2016/2017 Budget</i> \$
<i>Total Expenses</i>	\$126,300

In addition, the insurance coverage identified in the policy for Councillors is covered by other budget allocations for Council's insurances generally as the coverage for Councillors is included in Council's general insurance policies.

Provision will also be made in future Council budgets beyond 2016/2017 to accommodate the requirements of this policy.

Statutory and Policy Compliance Implications

The relevant sections of the Local Government Act 1993 are as follows:

252 Payment of expenses and provision of facilities

- (1) Within the first 12 months of each term of a council, the council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.
- (2) The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a councillor of a facility provided by the council to the mayor or councillor.
- (3) A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a councillor otherwise than in accordance with a policy under this section.
- (4) A council may from time to time amend a policy under this section.
- (5) A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.

253 Requirements before policy concerning expenses and facilities can be adopted or amended

- (1) A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.
- (2) Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.
- (3) Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.
- (4) (Repealed)
- (5) A council must comply with this section when proposing to adopt a policy in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.

254 Decision to be made in open meeting

The council or a council committee all the members of which are councillors must not close to the public that part of its meeting at which a policy for the payment of expenses or provision of facilities is adopted or amended, or at which any proposal concerning those matters is discussed or considered.

Report No. 13.2 **Council Investments September 2016**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2016/1039
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 September 2016 for Council's information.

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

RECOMMENDATION:

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

Report

In relation to the investment portfolio for September 2016, Council has continued to maintain a diversified portfolio of investments. At 30 September 2016, the average 90 day bank bill rate (BBSW) for the month of September was 1.73%. Council's performance to 30 September is approximately 2.67%. Councils' performance is again higher than the benchmark. This is largely due to the active ongoing management of the investment portfolio, maximising investment returns through secure term deposits

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

Schedule of Investments held as at 30 September 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	2.89%	1,000,080.00
08/07/16	2,000,000	NAB	P	AA-	07/10/16	TD	2.92%	2,000,000.00
06/06/16	2,000,000	NAB	N	AA-	04/10/16	TD	2.96%	2,000,000.00
04/08/16	2,000,000	NAB	N	AA-	04/11/16	TD	2.80%	2,000,000.00
05/09/16	2,000,000	BANKWEST	P	A1+	05/12/16	TD	2.50%	2,000,000.00
12/09/16	2,000,000	NAB	N	AA-	12/01/17	TD	2.64%	2,000,000.00
23/05/16	2,000,000	NAB	N	AA-	23/11/16	TD	2.98%	2,000,000.00
03/08/16	2,000,000	SUNCORP	P	A+	04/10/16	TD	2.30%	2,000,000.00
30/9/16	2,000,000	NAB	N	AA-	29/12/16	TD	2.67%	2,000,000.00
02/09/16	2,000,000	NAB	N	AA-	02/12/16	TD	2.62%	2,000,000.00
14/07/16	1,000,000	NAB	N	AA-	12/10/16	TD	2.91%	1,000,000.00
06/06/16	1,000,000	NAB	N	AA-	04/10/16	TD	2.96%	1,000,000.00
08/08/16	1,000,000	NAB	N	AA-	07/11/16	TD	2.79%	1,000,000.00
05/09/16	2,000,000	NAB	N	AA-	05/12/16	TD	2.62%	2,000,000.00
04/07/16	3,000,000	ME BANK	P	BBB	04/10/16	TD	2.88%	3,000,000.00
05/09/16	2,000,000	NAB	N	AA-	05/12/16	TD	2.62%	2,000,000.00
19/08/16	2,000,000	NAB	N	AA-	17/11/16	TD	2.65%	2,000,000.00
25/08/16	2,000,000	NAB	N	AA-	24/11/16	TD	2.63%	2,000,000.00
29/08/16	2,000,000	AMP BANK	P	A	28/11/16	TD	2.75%	2,000,000.00
01/09/16	2,000,000	NAB	N	AA-	01/12/16	TD	2.63%	2,000,000.00
04/07/16	2,000,000	NAB	N	AA-	03/01/17	TD	2.97%	2,000,000.00
07/07/16	2,000,000	BANK OF QUEENSLAND	P	A2	05/01/17	TD	2.95%	2,000,000.00
01/08/16	2,000,000	POLICE CREDIT UNION	P	NR	01/02/17	TD	2.85%	2,000,000.00
06/09/16	2,000,000	ME BANK	N	BBB	05/12/16	TD	2.65%	2,000,000.00
08/08/16	1,000,000	NEWCASTLE PERMANENT	P	BBB+	07/11/16	TD	2.80%	1,000,000.00
01/09/16	2,000,000	BEYOND BANK	P	A2	01/12/16	TD	2.70%	2,000,000.00
03/08/16	2,000,000	BEYOND BANK	N	A2	03/11/16	TD	2.80%	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
07/09/16	2,000,000	ME BANK	N	BBB	07/12/16	TD	2.65%	2,000,000.00
08/08/16	2,000,000	ME BANK	N	BBB	08/12/16	TD	2.65%	2,000,000.00
11/08/16	2,000,000	ME BANK	N	BBB	09/11/16	TD	2.65%	2,000,000.00
16/08/16	2,000,000	ME BANK	N	BBB	14/11/16	TD	2.65%	2,000,000.00
31/08/16	2,000,000	BEYOND BANK	N	A2	29/11/16	TD	2.70%	2,000,000.00
04/07/16	3,000,000	BANK OF QUEENSLAND	N	A2	04/01/17	TD	2.95%	3,000,000.00
04/07/16	2,000,000	COMMUNITY ALLIANCE CU	P	NR	04/10/16	TD	3.10%	2,000,000.00
04/07/16	1,000,000	BANANACOAST CU	P	NR	04/01/17	TD	2.95%	1,000,000.00
06/07/16	2,000,000	QUEENSLAND COUNTRY CU	P	NR	03/11/16	TD	2.95%	2,000,000.00
10/08/16	2,000,000	NAB	N	AA-	08/12/16	TD	2.79%	2,000,000.00
18/08/16	2,000,000	AMP BANK	N	A	16/03/17	TD	2.95%	2,000,000.00
31/08/16	2,000,000	NAB	N	AA-	31/10/16	TD	2.31%	2,000,000.00
01/09/16	1,000,000	AMP BANK	N	A	30/11/16	TD	2.75%	1,000,000.00
02/09/16	2,000,000	NAB	N	AA-	02/12/16	TD	2.62%	2,000,000.00
29/09/16	2,000,000	ME BANK	N	BBB	27/01/17	TD	2.65%	2,000,000.00
N/A	1,785,011	CBA BUSINESS ONLINE SAVER	N	A	N/A	CALL	1.40%	1,785,011.26
Total	81,285,011					AVG	2.67%	81,305,091.26

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.

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

Dissection of Council Investment Portfolio as at 30 September 2016

Principal Value (\$)	Investment Linked to:-	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
78,000,000.00	Term Deposits	78,000,000.00	0.00
1,000,000.00	Floating Rate Note	1,000,080.00	80.00
1,785,011.26	Business On-Line Saver (At Call)	1,785,011.26	0.00
500,000.00	Bonds	520,000.00	20,000.00
81,285,011.26		81,305,091.26	20,080.00

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

10 The table below provides a reconciliation of investment purchases and maturities for the 1 September 2016 to 30 September 2016 on a current market value basis.

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

Item	Current Market Value (at end of month) \$
Closing Balance at 31 August 2016	80,152,294.46
Add: New Investments Purchased	25,000,000.00
Add: Call Account Additions	0.00
Add: Interest from Call Account	2,796.80
Less: Investments Matured	23,000,000.00
Less: Call Account Redemption	850,000.00
Less: Fair Value Movement for period	0.00)
Closing Balance at 30 September 2016	81,305,091.26

15 **Investments Maturities and Returns – 1 September 2016 to 30 September 2016**

Principal Value (\$)	Description	Type	Maturity Date	Number of Days Invested	Interest Rate Per Annum	Interest Paid on Maturity \$
2,000,000.00	NAB	TD	01/09/16	91	2.94%	14,659.73
2,000,000.00	Beyond Bank	TD	01/09/16	92	3.00%	15,123.29
2,000,000.00	NAB	TD	02/09/16	123	3.08%	20,758.36
2,000,000.00	Bankwest	TD	05/09/16	61	2.80%	9,358.90
2,000,000.00	NAB	TD	05/09/16	91	2.93%	14,609.83
2,000,000.00	NAB	TD	05/09/16	123	3.01%	20,286.58
2,000,000.00	ME Bank	TD	06/09/16	92	2.95%	14,871.34
2,000,000.00	ME Bank	TD	07/09/16	120	2.95%	19,397.26
2,000,000.00	NAB	TD	12/09/16	123	2.99%	20,151.79

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 \$
1,000,000.00	Police Credit Union	TD	23/09/16	123	2.95%	9,941.10
2,000,000.00	Suncorp	TD	29/09/16	120	2.85%	18,739.73
2,000,000.00	NAB	TD	30/09/16	120	2.96%	19,463.01
23,000,000.00						197,360.92

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

Dissection of Council Cash Position as at 30 September 2016

Item	Principal Value (\$)	Current Market Value (\$)	Cumulative Unrealised Gain/(Loss) (\$)
Investments Portfolio			
Term Deposits	78,000,000.00	78,000,000.00	0.00
Floating Rate Note	1,000,000.00	1,000,080.00	80.00
Business On-Line Saver (At Call)	1,785,011.26	1,785,011.26	0.00
Bonds	500,000.00	520,000.00	20,000.00
Total Investment Portfolio	81,285,011.26	81,305,091.26	20,080.00
Cash at Bank			
Consolidated Fund	781,195.34	781,195.34	0.00
Total Cash at Bank	781,195.34	781,195.34	0.00
Total Cash Position	82,066,206.60	82,086,286.60	20,080.00

Financial Implications

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

Statutory and Policy Compliance Implications

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

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.

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

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

Report No. 13.3 **Draft 2015/2016 Financial Statements**
Directorate: Corporate and Community Services
Report Author: James Brickley, Manager Finance
File No: I2016/1091
5 **Theme:** Corporate Management
 Financial Services

Summary:

10 The Draft 2015/2016 Financial Statements have been prepared and been subjected to external audit. This report recommends to Council the adoption of the Draft 2015/2016 Financial Statements and the completion of the statutory steps outlined in Section 418 to 420 of the Local Government Act 1993.

15 The Draft 2015/2016 Financial Statements have also been submitted to the Internal Audit Advisory Committee and considered at an Extraordinary Meeting of the Committee held on 25 October 2016.

20 The External Auditor, Thomas Noble and Russell has been invited to this Ordinary Council Meeting, to present on the Draft 2015/2016 Financial Statements, and answer any questions from Councillors on the Financial Statements.

RECOMMENDATION:

1. **That Council suspend standing orders to allow for a presentation from Council's External Auditor, Thomas Noble and Russell.**
2. **That Council adopt the Draft 2015/2016 Financial Statements incorporating the General Purpose Financial Statements, Special Purpose Financial Statements and Special Schedules.**
3. **That Council approve the signing of the "Statement by Councillors and Management" in accordance with Section 413(2)(c) of the Local Government Act 1993 and Clause 215 of the Local Government (General) Regulation 2005 in relation to the 2015/2016 Draft Financial Statements.**
4. **That Council exhibit the Financial Statements and Auditor's Report and call for public submissions on those documents with submissions closing on 17 November 2016 in accordance with Section 420 of the Local Government Act 1993.**
5. **That the Audited Financial Statements and Auditors Report be presented to the public at the Ordinary Meeting of Council scheduled for 19 November 2015 in accordance with Section 418(1) of the Local Government Act 1993.**

Attachments:

- 30 1 Draft 2015-2016 General Purpose Financial Statements, E2016/92629
2 Draft 2015-2016 Special Purpose Financial Statements, E2016/92630
3 Draft 2015-2016 Special Schedules, E2016/92631

Report

The purpose of this report is to recommend the adoption and exhibition of the Financial Statements for the year ended 30 June 2016. The Financial Statements presented to Council for the financial year ended 30 June 2016 (refer to Attachments 1 to 6) are the final audited results and includes the Auditors Reports. Council has received an unqualified audit opinion for the 2015/2016 financial year.

The Draft 2015/2016 Financial Statements were also considered by the Internal Audit Advisory Committee at an Extraordinary Meeting held on 25 October 2016. This report was been completed prior to that meeting being held and Council will be advised by way of Memo of the Internal Audit Advisory Committee recommendations concerning the Draft 2015/2016 Financial Statements prior to this Ordinary Meeting.

The External Auditor, Thomas Noble and Russell has been invited to this Ordinary Council Meeting, to present on the Draft 2015/2016 Financial Statements, and answer any questions from Councillors on the Statements.

The Financial Statements and Auditor's Reports are a statutory requirement and provide information on the financial performance of Council over the previous twelve-month period.

The Council should place emphasis on the Auditor's Report contained at Attachment 6 relating to the attached documents as it provides some analysis of Council's financial operations overall and on a fund by fund basis (General, Water and Sewerage), and highlights the trending of major items within the Financial Statements.

The Draft 2015/2016 Financial Statements provided in the attachments are broken down into three sections being;

- General Purpose Financial Statements – Attachment 1
- Special Purpose Financial Statements – Attachment 2
- Special Schedules – Attachment 3

The remaining attachments being attachments 4 to 6 relating to the Draft Auditors Reports were not available at the time of preparing this report but will be distributed to Councillors prior to the 27 October 2016 Ordinary Council Meeting.

Brief explanations for each of these items are as follows.

General Purpose Financial Statements

These Statements provide an overview of the operating result, financial position, changes in equity and cash flow movement of Council as at 30 June 2016 on a consolidated basis with internal transactions between Council's General, Water and Sewerage Funds eliminated. The notes included within these reports provide details of major items of income and expenditure with comparisons to the previous financial year. The notes also highlight the cash position of Council and indicate which funds are externally restricted (i.e. may be used for a specific purpose only), and those that may be used at Council's discretion.

Special Purpose Financial Statements

These Statements are a result of the implementation of the National Competition Policy and relate to those aspects of Council's operations that are business orientated and compete with other businesses with similar operations outside the Council. Mandatory disclosures in the Special Purpose Financial Reports are Water and Sewerage. Additional disclosure relates to Council

business units that Council deems 'commercial'. In this regard Council has traditionally reported its Caravan Park Operations being Suffolk Beachfront Holiday Park and First Sun Holiday Park on a combined basis. These financial reports must also classify business units in the following categories:

5

- Category 1 – operating turnover is greater than \$2million
- Category 2 – operating turnover is less than \$2million

10 All of Council's business units are classed as Category 1 with all having operating turnover greater than \$2million.

15 Another feature of the Special Purpose Financial Reports is to build in taxes and charges where not physically incurred into the financial results to measure the results in the sense of a level playing field with other organisations operating similar businesses whom are required to pay these additional taxes and charges. These taxes and charges include:

- Land tax – Council is normally exempt from this tax so notional land tax is applied.
- Income tax – Council is exempt from income tax and in regard to these reports, company tax. Any surplus generated has a notional company tax applied to it.
- 20 • Debt guarantee fees – Generally due to the low credit risk associated with Councils, Councils can often borrow loan funds at lower interest rates than the private sector. A debt guarantee fee inflates the borrowing costs by incorporating a notional cost between interest payable on loans at the interest rate borrowed by Council and one that would apply commercially.

25

In regard to the Special Purpose Financial Reports, these are prepared on a non consolidated basis or in other words grossed up to include any internal transactions with the General Fund.

Special Schedules

30

These schedules are prepared essentially for use by the Australian Bureau of Statistics and are primarily used to gather information for comparative purposes. Special Schedules 3 to 6 are also used by the Department of Primary Industries (NSW Office of Water) in analysing the performance of the Water and Sewer Funds and are also non consolidated and grossed up including internal transactions. Special Schedule 7 provides an approximate value of what funds are needed for the maintenance and renewal of Council assets in comparison to what is currently allocated in the budget. For 2015/2016, Special Schedule 7 has continued to be amended in terms of disclosure with performance ratios and changes to the calculation basis of asset value by condition. Special Schedule 7 was initially to be subject to external audit for 2015/2016 but this requirement has been withdrawn given guidance and methodology has not been determined to establish the basis to enable audit. Special Schedule 8 is also included, which is a disclosure regarding Council's compliance with General Rate revenue raising and rate pegging. Special Schedule 8 is also subject to separate external audit aside from the financial statements.

40

Auditors Reports on the Financial Statements

45

Council's auditors, Thomas Noble and Russell, have completed their audit of the Draft 2015/2016 Financial Statements. All matters identified during the audit have been adjusted and included in the Draft 2015/2016 Financial Statements included at Attachments 1, 2 and 3. The Auditors Reports contained at Attachment 4, 5, and 6 is to report on the following:

50

- A report on the general purpose financial report. This report provides an analysis of various items within the General Purpose Financial Reports.

- A report on the conduct of the audit. This report states that the audit was carried out in accordance with the Australian Auditing Standards in order to form an opinion as to presentation and content of the financial statements.

- 5 • Statutory independent audit reports for both the General Purpose and Special Purpose Financial Statements.

Specific Items relating to 2015/2016 Draft Financial Statements

- 10 The Draft 2015/2016 Financial Statement results have been impacted by the following items that require explanation to the Internal Audit Advisory Committee:

- Operating Result from Continuing Operations

- 15 The 2015/2016 financial year has seen a further significant improvement in the operating financial results of Council. Overall Council recorded a \$15.974million surplus compared to a \$6.845million surplus in 2014/2015. This represents a change of \$9.129million between financial years. This result incorporates the recognition of capital revenues such as capital grants and contributions for specific purposes that amounted to \$12.707million in 2015/2016 compared to \$7.269million in 2014/2015.

A more important indicator is the operating result before capital grants and contributions. This result for Council was a surplus of \$3.267million in 2015/2016 compared to a deficit of \$425,000 in 2014/2015 representing an improvement of \$3.692million between financial years.

If reference is made to the Income Statement to the General Purpose Financial Reports included at Attachment 1, the following table indicates the major changes between 2015/2016 and 2014/2015 by line item:

Item	Change between 2015/2016 and 2014/2015 \$'000	Change Outcome	Comment
Income			
Rates & Annual Charges	+\$1,759	Increase	Reflects imposition of rate peg increase for 2015/2016 of 2.4% and changes in annual charges from Council's adopted 2015/2016 Revenue Policy
User Charges and Fees	+\$1,043	Increase	Major changes include additional \$211k revenue for holiday parks, \$356k for planning and development fees, \$1,227k increase in parking fees, 222k increase in water and sewerage user charges, \$176k reduction in private works revenues, \$399k reduction in waste fees. Further information is available in Note 3(b) in Attachment 1.
Interest and Investment Revenue	+\$124	Increase	Increase in revenues even due to decline in interest rates reflective of economic conditions. Council's cash position though did not decrease as expected which enabled more funds to be invested that offset the decline in interest rates.
Other Revenues	-\$121	Decrease	Decline due to less fine revenue \$39k and there was a insurance claim recovery in 2014/2015 but not in 2015/2016.
Grants & Contributions –	-\$4,452	Decrease	Increase in financial assistance grant \$163k, additional \$844k recognition of Roads to

BYRON SHIRE COUNCIL

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

13.3

Item	Change between 2015/2016 and 2014/2015 \$'000	Change Outcome	Comment
Operating			Recovery grant, decreased waste management grants \$553k and \$4,972k decrease in Roads and Bridges contributions for restoration works of transport assets associated with natural disasters.
Grants & Contributions – Capital	+\$5,438	Increase	Increased transport grants \$1,231k, increase in developer contributions \$3,712k, \$304k contribution for stabilisation works, additional \$191k in contributed assets.
Net gain from disposal of assets	+\$1,270	Increase	Specific details are contained in Note 5 to Attachment 1 but relate to profit on sale of real estate which then has losses on infrastructure disposals netted off.
Total Income Change	+\$5,060	Increase	
<u>Expenditure</u>			
Employee Benefits and Oncosts	+\$1,336	Increase	Increased salary and wages \$1,356k including Award increase of 2.7%. Council also incurred \$501k in restructuring costs. There was a further \$410k of employee costs capitalised given increased emphasis on capital works in 2015/2016 that reduced gross amount of employee costs charged as an operating expense.
Borrowing Costs	-\$137	Decrease	Results from Council gradually repaying loans and not borrowing new loans plus recognition of recent loan refinancing.
Materials & Contracts	-\$4,804	Decrease	Significant decrease due to contracts related to restoration of transport assets following declared natural disasters being completed. This has contributed in part to the reduction in raw materials and contracts of \$6,514k. There were increases in agency temporary staff of \$692k, increases in legal expenses \$78k, operating lease expenses \$307k, and waste contract \$517k
Depreciation	+\$468	Increase	Major change is due to changes from revaluation of Buildings revalued in 2014/2015 plus changes in water and sewerage due to indexation.
Other Expenses	-\$256	Decrease	Overall decrease but there were variations in line items as disclosed at Note 4(e) in Attachment 1.
Net Losses from Disposal of Assets	-\$676	Decrease	Reflection of the written down value of assets disposed at the end of financial year and is contingent upon the extent of assets disposed and their written down value at the time of disposal which can vary. For 2015/2016, Council has more gains than disposals.
Total Expenditure Change	-\$4,069	Decrease	
Change in Result	+\$9,129	Increase	

Following on from the operating results, there are performance ratios disclosed at note 13 to the General Purpose Financial Statements and in Special Schedule 7. These ratios have been derived following the financial assessments undertaken by NSW Treasury Corporation on all NSW

Councils in 2012 and are now continued to be incorporated into the latest update to the Code of Accounting Practice and Financial Reporting that determines the content of Council's Financial Statements. These ratios also have trend graphs and all look to be presenting either a stable or improving result for Council in Note 13. Council though in relation to the ratios for Special Schedule 7 in terms of Asset Management, whilst showing some improvement generally, still has a ways to go to meet the required benchmarks.

It is also important to note that the ratios and benchmarks outlined in Note 13 to the General Purpose Financial Statements and Special Schedule 7 are on an annual basis. Whilst some of these ratios were also benchmarks in Council's 'Fit for the Future' response, these were reported as a three year average as required. Therefore direct comparison cannot be made.

- Asset Revaluations

During 2015/2016, there was a revaluation conducted for the following asset categories:

- Buildings – revaluation conducted by external valuer
- Operational Land – revaluation conducted by external valuer
- Community Land – revaluation conducted using the Valuer General
- Swimming Pools – revaluation conducted using external valuer
- Other Open Space/Recreational Assets – revaluation conducted by external valuer
- Water and Sewerage – revaluation done through indexation of 1.50% outlined in the NSW Reference Rates Manual issued by the Department of Primary Industries (Office of Water).

The impact of the revaluation process realised an overall increase in asset values of \$38.858million, with the biggest increase related to land with Operational Land increasing \$6.801million and Community Land increasing \$16.846million.

- Cash and Investments

As at 30 June 2016, Council has \$1.145million in unrestricted cash and investments. This is an ongoing pleasing result and Council has been able to maintain another one of its short term financial goals of reaching unrestricted cash balance of \$1million. All other cash and investments totalling \$78.344million are restricted for specific purposes. Overall the cash and investment position of Council increased by \$9.537million during the year.

- Receivables

As at 30 June 2016, Council was owed \$9.25million in receivables. Of this amount \$2.007million was due from Roads and Maritime Services for expenditure claims and \$0.782million from the Commonwealth Government for Goods and Services Tax. Overall receivables reduced by \$0.079million compared to the 2014/2015 financial year.

- Payables and Provisions

At 30 June 2016, total payables by Council were \$10.704million including \$3.970million held in security bonds, deposits, retentions, payments received in advance, \$1.859million in accrued expenses and \$4.875million payable to suppliers. In addition at 30 June 2016, Council has accrued employee leave entitlements valued at \$5.282million. Specific employee leave entitlements include \$1.723million for annual leave, \$3.399million for long service leave and \$0.160million for gratuities. In comparison to 2014/2015, total payables increased \$1.152million whereas total provisions for employee leave entitlements decreased \$0.096million.

• Loan Borrowings

During 2015/2016 Council did not borrow any new loans but continued to make normal loan repayments plus the advance repayment in full of Loan Nos 40 (Waste Management) and 44 (Sewerage). This loan restructuring through early repayment provided an opportunity consistent with the principals of the Financial Sustainability Plan (FSP) in regards to Debt.

Council's outstanding loans as at 30 June 2016 are \$62.720million. Total loan expenditure for 2015/2016 included interest of \$4.887million and principal payments of \$3.566million. Total expenditure of Council in 2015/2016 related to loan repayments was \$8.453million or 10.9% of Councils revenue excluding all grants and contributions.

Outstanding loans by Fund totalling \$62.720million are as follows:

- General Fund \$14.752million
- Water Fund \$Nil
- Sewerage Fund \$47.968million

Liquidity

Council's balance sheet indicates net current assets of \$70.06million. It is on this basis in the opinion of the Responsible Accounting Officer that the short term financial position of Council remains in a satisfactory position and that Council can be confident it can meet its payment obligations as and when they fall due.

Council's Unrestricted Current Ratio has improved to 2.96 demonstrating Council has \$2.96 in unrestricted current assets compared to every \$1.00 of unrestricted current liabilities.

On a longer term basis Council will need to consider its financial position carefully but in isolation the financial results for 2015/2016 continue to be an ongoing improvement for Council and demonstrate the ongoing gains through the implementation of the Financial Sustainability Plan (FSP), the Council Improvement Plan (CIP) and the efforts of Council.

Financial Implications

There are no direct financial implications associated with this report as the report does not involve any future expenditure of Council funds but it is a report advising the financial outcomes of Council during the 2015/2016 financial year which are identified in this report, Attachments 1 to 3 and the Auditors reports in Attachments 4 to 6.

Statutory and Policy Compliance Implications

Section 413(2)(c) of the Local Government Act 1993 and Clause 215 of the Local Government (General) Regulation 2005 requires Council to specifically form an opinion on the financial statements. Specifically Council needs to sign off an opinion on the Financial Statements regarding their preparation and content as follows:

In this regard the Financial Statements have been prepared in accordance with:

- The Local Government Act 1993 (as amended) and the Regulations made thereunder.
- The Australian Accounting Standards and professional pronouncements.
- The Local Government Code of Accounting Practice and Financial Reporting.

And the content to the best of knowledge and belief:

- Present fairly the Council's operating result and financial position for the year.
- Accord with Council's accounting and other records.
- Management is not aware of any matter that would render the Reports false or misleading in any way.

5

Section 416(1) of the Local Government Act 1993, requires a Council's annual Financial Statements to be prepared and audited within four (4) months of the end of that financial year ie on or before 31 October 2016.

- 10 Section 417(4) of the Local Government Act 1993 requires, as soon as practicable after completing the audit, the Auditor must send a copy of the Auditor's Reports to the Director-General and to the Council.

- 15 Section 417(5) of the Local Government Act 1993 requires Council, as soon as practicable after receiving the Auditor's Reports, to send a copy of the Auditor's Reports on the Council's Financial Statements, together with a copy of the Council's audited Financial Statements, to the Director-General before 7 November 2016.

- 20 Section 418(1) of the Local Government Act 1993 requires Council to fix a date for the Meeting at which it proposes to present its audited Financial Statements, together with the Auditor's Reports, to the public, and must give public notice of the date so fixed. This requirement must be completed within five weeks after Council has received the Auditors Reports ie prior to 5 December 2016.

- 25 Section 420 of the Local Government Act 1993 requires Council to provide the opportunity for the public to submit submissions on the Financial Statements. Submissions are to be submitted within seven days of the Financial Statements being presented to the public. In the case of the 2015/2016 Financial Statements, closing date for submissions will be 24 November 2016.

**Report No. 13.4 IP&R Review Requirements Post 2016 Council Election and
Incorporation of Disability Inclusion****Directorate:** Corporate and Community Services**Report Author:** Mila Jones, Corporate Governance Coordinator**File No:** I2016/1094**Theme:** Corporate Management
Governance Services**Summary:**

This report provides an overview of the Integrated Planning and Reporting (IP&R) review requirements following local government elections. This document describes the minimum requirements as set out by the Office of Local Government and the Local Government Act 1993.

This document also provides an overview of the IP&R requirements as set out in the Disability Inclusion Act 2014 and actions have been included in the post-election review process.

RECOMMENDATION:

- 1. That Council endorse either option 1, 2 or 3 as outlined in the report.**
- 2. That Council endorse the existing themes or a new set of themes based on social, environmental, economic and civic leadership issues as prescribed by the IP&R Framework Guidelines.**

Attachments:

- 1 IP&R Review requirements following 2016 council election, E2016/92496
- 2 Community Engagement Strategy for the CSP 2022 Review following 2016 election, E2016/92498
- 3 Letter from DLG and response from Council regarding IP&R document Review (as referred to in Attachment 1), E2016/92476

Report

This report provides an overview of, and options for, Council's requirement to review the Integrated Planning and Reporting (IP&R) documentation following the 2016 Council election and incorporation of disability inclusion action planning into the documentation.

In accordance with the Local Government Act 1993, Council is required to review its IP&R documentation within nine months of a council election (ie by 30 June 2017). Council is also required by the NSW Disability Inclusion Act 2014 to undertake disability inclusion action planning by 1 July 2017. Council has identified that it will include the disability inclusion action planning process through the IP&R framework as opposed to developing a stand-alone Disability Inclusion Action Plan (DIAP).

Options for Review

Taking into consideration the requirement of the Local Government Act, that the Community Strategic Plan (CSP) must be reviewed by the newly elected council, it is recommended that Council consider and endorse one of the following three options. To assist Councillors, the Post-Election Review document at Attachment 1 provides further details on the options available, as well as a project plan, based on the options.

Option 1: Review the existing CSP 2022 and make amendments based on consultation feedback. CSP adopted by Council on or before 30 June 2017. Based on current staff resources and budget this option is possible.

Option 2: Re-adopt the existing CSP 2022 with no changes. The endorsement of this option would include a review CSP prior to the end of the next financial year 2017-2018. This review would incorporate the Disability Inclusion Act requirements. Based on current staff resources and budget this option is possible.

Option 3: Retire the existing CSP 2022 and prepare a completely new Plan for adoption by Council, following the required consultation process, on or before 30 June 2017. Based on staff resources and timeline constraints, it may not be possible to accomplish this option by 30 June 2017, considering that the existing CSP took 17 months to complete. Within the current staff resources and funding, this option would require a project timeline in excess of the nine months prescribed by the Act and would not allow for extensive community consultation.

Themes

Should any the above Options 1, 2 or 3 be endorsed, Council should also consider the existing CSP themes being:

- Corporate Management,
- Economy,
- Society and Culture,
- Environment, and
- Community Infrastructure,

and either endorse the themes or endorse an amendment of the themes. Further information is provided in the Post-Election Review document at Attachment 1.

Engagement

Consultation regarding the way forward has occurred with the Director Corporate and Community Services, the Executive Team, Community Development Manager, Community Policy Officer, Business Partner (Workforce Capability), Media Communications Officer and Corporate Governance Coordinator. Section 12 of the Disability Inclusion Act 2014 requires that people with disability must be consulted as part of the disability inclusion action planning process.

The draft community engagement strategy (Attachment 2) proposes activities and a timeline for exhibition and consultation. Since Council has already undertaken a number of engagement processes in the recent past, a review of the key findings from those processes will be included as part of this engagement strategy. For example, Council has recently engaged with a community satisfaction survey, asset management survey, Coastal Zone Management and Safer Community Compact, asset survey and SRV survey and information stands. One recognised gap in consultation to date relates to disability inclusion however this will be addressed as the Community Development team works with consulting services that will be engaged by Council to assist in the development of disability inclusion action planning.

Should there be any further gaps identified in the CSP during the first round of consultation, it is proposed that further consultation will take place with targeted groups (refer 6(a) in the key milestones below.

Key Milestones

The following key milestones relate to **Option 1**.

Key Milestones	Action Owner	Completion
Phase 1 - Commencement		
1. Report to ET on CSP Review options for reporting to Councillors	Executive Team	12 October
2. Present the proposed review process to Councillors at a Strategic Planning Workshop	Corporate Governance	20 October
3. Report to Council to endorse or amend the CSP themes and the option for the review of CSP		27 October
Phase 2 – Exhibition and Consultation		
4. “Have your say” public engagement seeking input on relevance of the current CSP (with any amendments proposed from internal consultation)	Corporate Governance	12 December
5. Complete internal consultation sessions with Directors, managers and coordinators with focus on both disability inclusion and CSP	Community Development, Corporate Governance	12 December
6. Identify with relevant staff, the key findings from recent community consultation, for inclusion in the CSP where necessary	Corporate Governance	12 December
7. Community consultation and engagement focussing on DIAP	Community Development	12 December
7(a) <i>If consultation gaps have been identified during the exhibition of the CSP, targeted engagement to be held with relevant stakeholder groups</i>	Corporate Governance	12 December
8. Report to Council the Draft CSP (incorporating submission feedback and consultant evaluation)	Community Development,	2 February

for endorsement to publicly exhibit.	Corporate Governance	
9. Publicly exhibit the Draft CSP and refer to regional and state agencies	Corporate Governance	9 February
Phase 3 – Evaluation		
10. Review of feedback from public exhibition	Community Development, Corporate Governance	17 March
11. Report to Council on submissions and revised Draft CSP for adoption	Community Development, Corporate Governance	27 April*

** In order to prepare and report by 30/6/17 the revised Delivery Program, Operational Plan and Resourcing Strategy based on amended CSP, it is necessary to have an adopted CSP by end April at the latest.*

Option 2: Should this option be endorsed: steps 4, 6 and 7(a) from the table above will not be necessary; steps 5, 8, 9, 10 and 11 will relate to a Delivery Program rather than a CSP.

Option 3: Milestones for this option have not been identified at this stage.

Delivery Program, Operational Plan and Resourcing Strategy

Note that this report does not provide information on revising the Delivery Program, Operational Plan and Resourcing Strategy. This will be the subject of a separate report.

Financial Implications

As a guide, Option 1 costs have been estimated at \$34,000. Should option 2 be adopted, costs would be in the order of \$30,000 in this financial year for disability inclusion action planning being incorporated into Council's Delivery Program. An estimate has not been prepared should option 3 be adopted however costs will be in excess of \$34,000 to accommodate resourcing and more extensive consultation.

Statutory and Policy Compliance Implications

Councils are required to prepare a Community Strategic Plan and associated documents under the Integrated Planning and Reporting Framework. This is regulated by the Local Government Act 1993 (as amended by the Local Government Amendment (Governance and Planning) Act 2016) and in compliance with the Integrated Planning and Reporting Guidelines.

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.5 PLANNING - 26.2015.6.1 Planning Proposal to amend Byron LEP 1988 - West Byron

Directorate: Sustainable Environment and Economy

Report Author: Chris Larkin, Major Projects Planner

Steve Daniels, Planner

File No: I2016/982

Theme: Ecology

Planning Policy and Natural Environment

Summary:

This report presents the public exhibition outcomes on a planning proposal to amend the Byron LEP 1988 (West Byron) in accordance with Council Resolution **15-567**. The planning proposal seeks to resolve a number of issues impacting the logical development of West Byron through three key provisions outlined below.

Two residential zones, the R2 Low Density zone and the R3 Medium Density zone apply to approximately 55 hectares of the site. Clauses 82 and 83 of Byron LEP 1988 permit identical residential densities for various types of housing in both zones including dual occupancies, multi dwelling housing and integrated housing. Potentially, as West Byron develops there will be little distinction between these residential zones. This is a concern not only for Council and the community, but also the land owners. The planning proposal recommends that Clauses 82 and 83 be amended to specifically decrease the potential residential yields in the R2 Low Density Residential zone to provide a clear distinction with the R3 Medium Density Residential zone.

A second issue is the ability for the developer to install necessary infrastructure throughout the estate which will necessitate some works in the E2 and E3 Zones. This includes stormwater management, earthworks, water reticulation and sewer reticulation works. The planning proposal recommends that a new clause be inserted into the Byron LEP 1988 to facilitate the installation of necessary urban infrastructure at West Byron.

Finally, the provisions for subdivisions on land with split environmental and urban zones requires any residual E2 and E3 Zoned land to be 40 hectares or more. The variation provisions (Clause 85) under Byron LEP 1988 do permit one lot to be less than the minimum area, but with West Byron comprising multiple lots with split zones and multiple land owners, it is considered the variation clause does not contain sufficient flexibility to enable the development of West Byron to occur in a logical manner. In this regard all existing parcels at West Byron that contain land zoned E2 or E3 are substantially less than 40 hectares in area, and any subdivision along zone lines may be construed as prohibited despite the residual environmental area not being fragmented by subdivision. The planning proposal recommends that Clause 85 be amended to address this issue.

In accordance with the requirements of the Gateway determination, the planning proposal was amended and placed on public exhibition for a period of 28 days from 21 July to 19 August 2016. Twelve public submissions were received during the exhibition period, and two submissions were received from Government agencies.

This report recommends that Council proceed with the planning proposal (as contained in Attachment 1) with the following amendment:

- a) Amend the proposed enabling clause on page 12 of the exhibited planning proposal to include the following suggested wording:

1. *The objective of this clause is to enable development consent to be granted for lots in the E2 and E3 Zone which do not comply with the minimum lot size map if they are residual lots, or are adjusted with other E2 or E3 zoned land.*

- 5 2. *Despite any other provisions of this Plan, development consent can be granted for the subdivision of land in the E2 and E3 Zone provided all land originally in the E2 or E3 Zone remains in one lot as a residue lot, or is adjusted with other E2 or E3 zoned land.*

- 10 The Minister for Planning and Environment has retained delegated authority to make the LEP amendment should Council decide to proceed with it.

NOTE TO COUNCILLORS:

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

20

RECOMMENDATION:

That Council:

1. **Make the following amendment to the planning proposal (Attachment 1):**
 - a) **Amend the proposed enabling clause on page 12 of the exhibited planning proposal to include the following suggested wording:**
 1. *The objective of this clause is to enable development consent to be granted for lots in the E2 and E3 Zone which do not comply with the minimum lot size map if they are residual lots, or are adjusted with other E2 or E3 zoned land.*
 2. *Despite any other provisions of this Plan, development consent can be granted for the subdivision of land in the E2 and E3 Zone provided all land originally in the E2 or E3 Zone remains in one lot as a residue lot, or is adjusted with other E2 or E3 zoned land.*
2. **Forward the planning proposal (as amended) to the NSW Department of Planning & Environment requesting that a draft LEP instrument be prepared.**

Attachments:

- 25 1 Planning Proposal, E2016/84236
- 2 Confidential - Public Exhibition Submissions, E2016/83188
- 3 NSW Rural Fire Services submission , E2016/83186
- 4 NSW Office of Environment & Heritage submission, S2016/11853
- 5 Gateway Determination , S2016/1264
- 30 6 Altered Gateway Determination, E2016/27600
- 7 Special Disclosure of Pecuniary Interest Annexure, E2012/2815

Report

Background

5 The planning proposal seeks to resolve a number of issues impacting the logical development of West Byron through three key provisions.

10 Two residential zones, the R2 Low Density zone and the R3 Medium Density zone apply to approximately 55 hectares of the site. Clauses 82 and 83 of Byron LEP 1988 permit identical residential densities for various types of housing in both zones including dual occupancies, multi dwelling housing and integrated housing. Potentially, as West Byron develops there will be little distinction between these residential zones. This is a concern not only for Council and the community, but also the land owners. The planning proposal recommends that Clauses 82 and 83 be amended to specifically decrease the potential residential yields in the R2 Low Density Residential zone to provide a clear distinction with the R3 Medium Density Residential zone.

15 A second issue is the ability for the developer to install necessary infrastructure throughout the estate which will necessitate some works in the E2 and E3 Zones. This includes stormwater management, earthworks, water reticulation and sewer reticulation works. The planning proposal recommends that a new clause be inserted into the Byron LEP 1988 to facilitate the installation of necessary urban infrastructure at West Byron.

25 Finally, the provisions for subdivisions on land with split environmental and urban zones requires any residual E2 and E3 Zoned land to be 40 hectares or more. The variation provisions (Clause 85) under Byron LEP 1988 do permit one lot to be less than the minimum area, but with West Byron comprising multiple lots with split zones and multiple land owners, it is considered the variation clause does not contain sufficient flexibility to enable the development of West Byron to occur in a logical manner. In this regard all existing parcels at West Byron that contain land zoned E2 or E3 are substantially less than 40 hectares in area, and any subdivision along zone lines may be construed as prohibited despite the residual environmental area not being fragmented by subdivision. The planning proposal recommends that Clause 85 be amended to address this issue.

Council resolved to amend Byron LEP 1988 in relation to West Byron on the 29 October 2015 as follows:

35 **15-567 Resolved:**

1. *That Council proceed with the planning proposal in Attachment 1 and forward to the Department of Planning and Environment with the exception of the infrastructure clause in relation to development in the E zones, which will be amended to only permit infrastructure to cross E Zones but not to run parallel/along them.*
- 40 2. *That Council request the Department of Planning and Environment to delegate to Council the preparation and making of the LEP Amendment.*

45 An initial Gateway Determination was issued on the 22 January 2016 requiring minor amendments, and further Department of Planning and Environment (DPE) approval prior to community consultation. DPE requested that some of the proposed clauses be re-written in plain English, the provision of a wider locality map, and further discussion and information on likely servicing arrangements, potential impacts and environmental protection measures associated with infrastructure works.

50 Staff amended the Planning Proposal to address the issues raised in the Gateway Determination which was then forwarded to DPE for further consideration. DPE subsequently issued an Altered Gateway Determination requesting that the provisions relating to restricting infrastructure works to

only cross environmental zones be removed. DPE advised that whilst they require this change they support the intent of ensuring that works in the environmental zone are properly considered and minimised. To achieve this DPE suggested that Council incorporate an additional “heads of consideration” clause to ensure works in the environmental zones are properly considered and impacts minimised at the development application stage. The planning proposal was then updated to comply with the Altered Gateway Determination prior to public exhibition. The incorporated “heads of consideration” clause can be viewed on page 8 of the planning proposal (Attachment 1). A copy of the two Gateway Determinations is attached for Council’s information.

Consultation

In accordance with the requirements of the Gateway determination, the planning proposal was placed on public exhibition for a period of 28 days from 21 July to 19 August 2016. Twelve public submissions were received during the exhibition period.

A submission was received from the NSW Rural Fire Service following a request for comment as required by the Gateway determination. Additionally, the Office of Environment & Heritage also made a submission to the proposal. In this instance, comment from the OEH was not required as a condition of the Gateway determination. The submissions received from these government agencies are included as Attachments 3 and 4 and are summarised below.

Government Agency Submissions

NSW Rural Fire Service (RFS)

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

The Service has reviewed the plans and documents received for the proposal and subsequently raises no concerns or issues in relation to bush fire.

NSW Office of Environment & Heritage (OEH)

The OEH has raised no objections to the planning proposal proceeding and provided the following comments in support of the proposal:

The OEH supports:

1. *The proposed inclusion of heads of consideration provisions to ensure works proposed within the E2 Environmental Conservation or E3 Environmental Management zones are appropriately sited and designed to have minimal potential for environmental impact.*
2. *The requirement for the provision of offsets and mitigation measures where such impacts are unable to be avoided and the development offsets using best-practice biometric, such as the BioBanking Credit Calculator and its complementary document the BioBanking Assessment Methodology.*
3. *The proposed changes in relation to variations from minimum lot sizes for split zoned land, including those lots that include E2/E3 and residential land use zones in the one allotment, to allow orderly and efficient development across the West Byron precinct.*
4. *The proposed addition of wording to ensure ‘development consent can be granted for the subdivision of land in the E2 or E3 zone, provided all land originally in the E2 or E3 zone remains in one lot as a residue lot.’*

5. *The planning proposal's requirement that areas of wetlands (currently deferred from Byron LEP 2014) be retained within the residual lots containing E2 and E3 lands.*

Furthermore, the OEH does not oppose the proposed changes relating to the R2 Low Density Residential Zone.

Public Submissions

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

Issues Raised	Staff Comment
Endorses the aims and objectives of the planning proposal. Requests that Council consider amending clause 82 of the BLEP 2014 so that all R2 zoned land could be developed for dual occupancy development at lot sizes of 600m2.	Noted. Comment will be considered in the review of submissions to the Preliminary Draft Byron Shire Residential Strategy.
<p>Objects to amending the BLEP 1988 to address the permissibility of essential infrastructure in E2 and E3 zoned land. Argues that zoning should be redone to ensure that essential infrastructure can be constructed outside environmental zones.</p> <p>Permissibility of earthworks, stormwater management, water reticulation and sewer reticulation works in the E2 and E3 zones will further reduce and degrade remnant riparian vegetation and koala habitat.</p>	<p>In order to enable the subject land to be developed in an orderly manner, it will be necessary to carry out earthworks, drainage, water supply and sewage works within the E2 and E3 zones including the existing drainage channel in particular. These works are expected to be of minor impact.</p> <p>The proposed enabling clause includes heads of consideration provisions to ensure that works are appropriately sited and designed to have minimal potential for environmental impacts with compensatory offset and mitigation measures where such impacts cannot be avoided. (See comments submitted by the OEH)</p> <p>Development consent will be required for all works proposed in the E2 and E3 Zones. Proposed works will therefore be considered at the development application stage.</p>
The location of any drainage works cannot be properly determined until a thorough Acid Sulfate Soil Management Plan for West Byron is in place, since the required depth of the main drain intersects the Potential and Actual Acid Sulfate layers already identified on the site. The proposed drain will have dire consequences for the health of the Belongil estuary and its inhabitants.	<p>Clause 97 Byron LEP 1988 will apply to proposed works impacted by acid sulfate soils. Under Part 3 Clause 97 Byron LEP 1988 development consent must not be granted for the carrying out of works unless an acid sulfate soils management plan has been prepared.</p> <p>Proposed works impacted by acid sulfate soils will be considered at the development application stage.</p>

Issues Raised	Staff Comment
<p>Objects to the proposed amendment to Clause 82 and 83 of the BLEP 1988 arguing that Clause 83 defies the purpose of Low Density Residential.</p>	<p>The proposed amendment to Clause 82 and 83 of the BLEP 1988 seeks a reduction in dwelling density currently permitted in the R2 Zone. The lot sizes and densities proposed under the amendment will provide for a range of housing types and densities across the R2 Zone while providing a clear density differentiation with the R3 Zone.</p>
<p>Concern raised that the current drafting of the amendment has the potential to prohibit the buffer boundary adjustments between existing landowners.</p> <p>To enable necessary buffer boundary adjustments, the proposed amendment to the subdivision clause set out at page 12 of the exhibited planning proposal should be amended as described below;</p> <ol style="list-style-type: none"> <i>The objective of this clause is to enable development consent to be granted for lots in the E2 and E3 Zone which do not comply with the minimum lot size map if they are residual lots, <u>or are adjusted with other E2 or E3 zoned land.</u></i> <i>Despite any other provisions of this Plan, development consent can be granted for the subdivision of land in the E2 and E3 Zone provided all land originally in the E2 or E3 Zone remains in one lot as a residue lot, <u>or is adjusted with other E2 or E3 zoned land.</u></i> 	<p>Noted. The submitted amendment to the proposed enabling clause is considered justified.</p>

The Minister for Planning and Environment has retained delegated authority to make the LEP amendment should Council decide to proceed with it.

5 Financial Implications

The costs for proceeding with the planning proposal will be borne by the Landowners, as provided for in a 'Cost and Expenses Agreement' under Council's 2015/16 Fees & Charges.

10 Statutory and Policy Compliance Implications

Council has followed the statutory process to amend Byron LEP 1988 through this planning proposal. Council should now decide whether or not to proceed with the finalisation of the planning proposal, either with or without amendments.

Report No. 13.6 PLANNING - Draft Byron DCP 2014 - Chapter E8 West Byron Urban Release Area - Submissions Report

Directorate: Sustainable Environment and Economy

Report Author: Chris Larkin, Major Projects Planner

File No: I2016/701

Theme: Ecology
Planning Policy and Natural Environment

Summary:

This report presents the public exhibition outcomes on the Draft Byron Development Control Plan 2014 - Chapter E8 West Byron Urban Release Area (draft DCP). Specifically the draft DCP has been prepared to facilitate the development of the West Byron Urban Release area addressing the matters listed under Clause 101 of Byron LEP 1988. The draft DCP includes housing, subdivision, landscaping, environmental, and infrastructure controls for the urban release area.

The draft DCP was exhibited for a period of 6 weeks from 22 October to 4 December 2015. A total of 752 submissions were received raising a variety of issues including the scale and character of the development, traffic and infrastructure, and environmental impacts. Having regards to the submissions received a number of minor amendments have been made to the DCP.

Council has also received correspondence from the Department of Planning and Environment dated 12 September 2016, noting the time it has taken for the DCP to be finalised since it was delegated back to Council in February 2015. The Department has requested that the matter should be finalised at the earliest opportunity following the 2016 Local Government Elections and no later than October 2016.

This report recommends that Council approve Chapter E8 West Byron Urban Release Area as modified plus minor changes to Part A and Part D of Byron Shire DCP 2014. Following approval a notice of the decision must be published in a local newspaper within 28 days of the decision being made. Chapter E8 and the amendments to Part A and D will become effective on the day that notice of the decision is published.

NOTE TO COUNCILLORS:

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

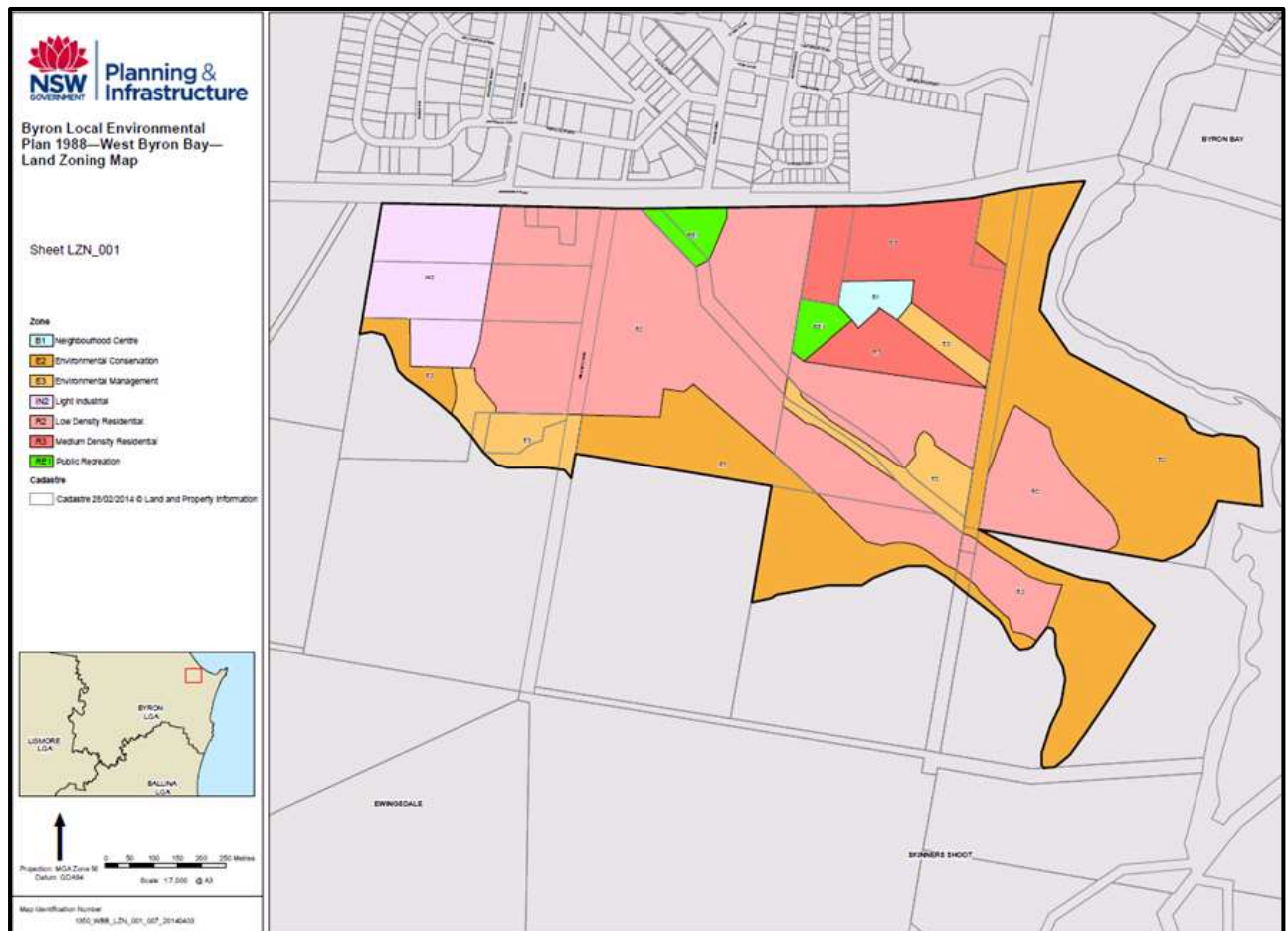
RECOMMENDATION:

That Council approve the Byron Shire Development Control Plan 2014 - Chapter E8 West Byron Urban Release Area and associated amendments to Part A and Part D of the Byron Shire Development Control Plan 2014 in Attachments 1 and 2, and that notice of the decision be published in a local newspaper within 28 days of this decision being made.

Attachments:

- 1 Part A and D Byron Shire DCP 2014, E2016/82462
- 2 draft Byron DCP 2014 Chapter E8 - West Byron Urban Release Area , E2016/83304
- 3 Submission Report, E2016/17813
- 4 Confidential - Letter notifying of submission withdrawal, S2016/12926
- 5 Form of Special Disclosure of Pecuniary Interest, E2012/2815

Zoning Map for the West Byron Urban Release Area



Report

Overview

At the Ordinary Meeting of 17 September 2015, Council resolved (*Resolution 15-422*) to publicly exhibit the draft DCP for a minimum period of 6 weeks including:

- a) the draft Byron Shire Development Control Plan 2014 – Chapter E8 West Byron Urban Release Area (draft DCP);
- b) the draft amendments to Part A of Byron Shire DCP 2014 Section A5 'Where this DCP Applies' and Appendix A1 Dictionary and any other changes to Part A to reference the West Byron Bay site.

The draft DCP will provide guidance to development in the West Byron Urban Release Area and it includes controls for the matters listed under Clause 101 of Byron LEP 1988. These are:

- a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing
- b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists
- c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain

- d) a network of active and passive recreation areas
- e) stormwater and water quality management controls
- 5 f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected
- 10 g) detailed urban design controls for significant development sites
- h) measures to encourage higher density living around transport, open space and service nodes
- 15 i) measures to accommodate and control appropriate neighbourhood commercial and retail uses
- j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.

20 The draft DCP also addresses other matters such as traffic noise attenuation along Ewingsdale Road and Aboriginal Cultural Heritage. It includes links back to other planning controls for Byron Shire under Byron DCP 2014 to avoid unnecessary repetition and to ensure consistency with Section 74C of the EPA Act 1979.

25 **Consultation**

The draft DCP and the amendments to Part A of Byron DCP 2014 were exhibited for a 6 week period from 22 October 2015 to 4 December 2015. Council received 752 submissions raising a variety of issues and concerns regarding the draft DCP. The submissions have been summarised with staff comments in the Submissions Report, **Attachment 3**. Copies of all submissions have
30 been uploaded to Councillors dashboard.

Issues raised included:

- Objections to the land being rezoned
- The size and area of West Byron that had been rezoned
- 35 • Alternate options for the development of West Byron
- Impacts on flora, fauna, wetlands, acid sulphate soils, groundwater, Belongil Estuary
- Flooding and stormwater management
- Buffers to Ewingsdale Road
- Carbon footprint
- 40 • Governance; and
- Housing design and affordable housing.

In response to submissions, various minor amendments to the draft DCP are recommended to ensure issues are appropriately addressed at the development application stage for West Byron.
45 These amendments are shown in *red italics* in the revised draft DCP (Attachment 1) and the Submissions Report.

It is noted with the growing popularity of secondary dwellings in Byron Shire, some applicants are pushing the size and scale of these dwelling with large decks and verandahs and in some
50 instances more than doubling the allowable floor area of 60m². This adds substantially to the cost of construction, and undermines the ability for the secondary dwelling to then be rented or let at an affordable price, or achieve the aims of the SEPP (Affordable Rental Housing) 2009. To provide guidance on this for West Byron it has been recommended that provisions be added to limit the

size of decks and verandahs to no more than 20m², and that the same control be also added to Chapter D1.4.1 Private Open Space (Secondary Dwellings) for the rest of the Shire.

5 Council received late correspondence on 30 September 2016 indicating the withdrawal of a submission regarding in part reference number 66 of the submissions report and buffer distances to E Zones and surrounding development in Melaleuca Drive. This correspondence is attached (Attachment 4). From the submission, an agreement has been reached between land owners in this location to adjust property boundaries to provide sufficient buffer to the property in question.

10 No changes are proposed to Part A of Byron DCP 2014 as exhibited.

15 Correspondence has also been received from the Department of Planning and Environment dated 12 September 2016. The Department have requested that the West Byron DCP be considered at the earliest opportunity following the Council elections, and by no later than October 2016. (See Attachment 4) Staff have advised the Department that the DCP is being reported to this meeting of Council. The Department also advise that "if appropriate progress is not made by Council in this matter, the Department will be considering other alternatives to ensure the timely finalisation of the DCP."

20 **Financial Implications**

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

Statutory and Policy Compliance Implications

25 Council has followed the statutory process to amend Byron DCP 2014 under the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2000. Specifically the DCP provisions have been drafted to give effect to the planning controls within the Byron LEP 1988 and as required under Section 74BA (Purpose and Status of Development Control Plans) of the EPA Act 1979. Under Clause 21 of the EPA Regulations 2000, after considering any submissions about the draft development control plan, Council:

- 30
- (a) may approve the plan in the form in which it was publicly exhibited, or
 - (b) may approve the plan with such alterations as the Council thinks fit, or
 - (c) may decide not to proceed with the plan.

35 **Recommendation**

It is recommended that Chapter E8 West Byron Urban Release Area and associated amendments to Part A and Part D of the Byron Shire DCP 2014 be approved by Council.

Report No. 13.7 PLANNING - 26.2015.5.1 Planning Proposal for Short Term Rental Accommodation - Update on LEP Amendment

Directorate: Sustainable Environment and Economy
Report Author: Chris Larkin, Major Projects Planner
File No: I2016/989
Theme: Ecology
 Planning Policy and Natural Environment

Summary:

The purpose of this report is to provide Council with an update on the Planning Proposal to amend Byron LEP 2014 to facilitate Short Term Rental Accommodation (STRA) in accordance with Council Resolution 16-165. Following the Council meeting of 7 April 2016, the Planning Proposal was sent to the Department of Planning and Environment and the Parliamentary Counsel's Office (PCO) for an opinion as to whether the plan can be made. The PCO have recommended the plan be made with some changes to the exempt provisions.

Although not achieving all Council's aims for STRA, it does provide a legal means to begin regularising such properties. It is also noted the exempt clause greatly expands on what is required in the Gosford and Wyong LEP's for the same types of activities which permits holiday letting in four bedroom dwellings throughout the year. (Byron Shires draft provisions limits it to 3 bedrooms dwelling and only 90 days per year).

As Council has delegated authority to make the Plan on behalf of the Minister for Planning and Environment, the amended provisions are presented to Council for noting and comment prior to the plan being made.

In addition, staff also seek confirmation from Council by way of a resolution to enable compliance action to be deferred against properties operating without consent for the first 12 months following the STRA provisions coming into effect. This is consistent with the action plan as endorsed by Council on 30 April 2015 (*Resolution 15-186.*)

NOTE TO COUNCILLORS:

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

RECOMMENDATION:

- 1. That Council note the amendments to the draft planning provisions by Parliamentary Counsel; and**
- 2. That Council not take compliance action against existing land owners for 12 months following the LEP amendment being made for using a dwelling for short term rental accommodation not in accordance with Byron LEP 2014, provided that use does not generate complaints relating to noise, amenity or public health and safety issues.**

Attachments:

- 1 Parliamentary Counsel Opinion, E2016/84209
- 2 Form of Special Disclosure of Pecuniary Interest, E2012/2815

Report

The draft planning controls to amend Byron Shire LEP 2014 as resolved by Council resolution **16-165** required the following

- *Insert a new clause into Byron Shire LEP 2014, Part 6, Additional Local Provisions to require consent for Short Term Rental Accommodation as follows:*

The objectives of the clause are to enable dwellings that are located in a zone where dwellings are permitted, to be used as short term rental accommodation by tourist and visitors on a commercial basis with development consent. The clause will also limit the maximum number of occupants to 2 per bedroom, excluding children under 5 years of age. The clause will not limit the size of the dwelling or the number of bedrooms. It will provide a means for those land owners to seek an approval if their short term rental activities or the dwelling did not satisfy the exempt provisions.

And

- *Insert exempt provisions in Schedule 2 (LEP 2014) for certain Short Term Rental Accommodation (STRA) in order that in some circumstances it can be undertaken as exempt development as follows:*

The objectives of the exempt clause are to enable some dwellings to be used as short term rental accommodation by tourist and visitors on a commercial basis without needing development consent. All of the following circumstances must be met in order to be exempt development:

- 1. Limits the use to less than 90 days in a calendar year.*
- 2. The dwelling is located in a zone where dwellings are permitted under Byron LEP 2014.*
- 3. Limits the size of the exempt dwelling house to 3 bedrooms and the number of occupants to two per bedroom, excluding children less than 5 years of age.*
- 4. Provision and regular servicing of suitable garbage and recycling bins.*
- 5. Where a dwelling is located within a community title or strata scheme the owners corporation support is required to use the dwelling for STRA.*
- 6. The dwelling is to have hard wired smoke alarms, evacuation lighting and a fire blanket and extinguisher in the kitchen.*
- 7. Excludes properties that generate more than 2 substantiated complaints concerning the short term rental activities taking place on the property from the occupiers of separate dwellings in the vicinity of the subject dwelling over a 12 month period*
- 8. Requires the owner or manager of a property used for STRA to register their property on Council's Short Term Rental Accommodation Register prior to use.*
- 9. Ensures the dwelling complies with the Holiday Rental Code of Conduct endorsed by the Department of Planning and dated March 2013.*
- 10. Requires the land owner or property manager to be contactable 24 hours 7 days a week to be able to respond to complaints from neighbours within 30 minutes to deal with issues such as noise, parties, anti social behaviour which affect the residential amenity of the neighbourhood.*
- 11. Requires an A3 size sign to be placed at the front of the property so it can be clearly seen from the public domain advising the public of the land owner's or property manager's details including telephone number to enable complaints to be readily made at any time of the day and wording to advise that the property is 'Registered with Byron Shire Council'.*
- 12. Outdoor areas including swimming pools, spas, outdoor decking and balconies are not to be used between the hours of 10pm and 8am.*
- 13. Visitors permitted at a property are not to exceed 6 persons between 8am and 10pm and no visitors are permitted after 12 midnight.*
- 14. A security bond be required of no less than \$250 per adult per letting.*

Note 1. *Under the Rural Fires Act 1997, where a dwelling is located on mapped bushfire prone land, a Bushfire Safety Authority under Section 100B must be obtained and all conditions of the Bushfire Safety Authority must be complied with, prior to commencement of the use as short term rental accommodation.*

Parliamentary Counsel has provided Council with legal advice on how the clauses are to be drafted which can be found at Attachment 1. The provisions state:

5 [1] Clause 6.10 (insert after Clause 6.9)

6.10 Short-term rental accommodation

- 10 (1) *The objective of this clause is to require development consent for the temporary use of a dwelling as short-term rental accommodation.*
- (2) *Despite any other provision of this Plan, development consent is required for the use of a dwelling as short-term rental accommodation if the dwelling is available for rent for more than 90 days per calendar year.*
- 15 (3) *Development consent must not be granted for the use of a dwelling as short-term rental accommodation unless:*
- (a) *the dwelling is located in a zone where dwellings are permitted with development consent, and*
- (b) *the dwelling contains no more than 5 bedrooms, and*
- 20 (c) *the use does not interfere with the amenity of the neighbourhood by reason of the activities taking place on or near the dwelling, the emission of noise or traffic generation.*

[2] Schedule 2 Exempt development (Insert in appropriate order)

25 Short-term rental accommodation

Note. If the subject dwelling is located on bush fire prone land, a bush fire safety authority must be obtained before the dwelling is used as short-term rental accommodation (see section 100B of the Rural Fires Act 1997).

- 30 (1) *Must be located in a zone where dwellings are permitted with development consent.*
- (2) *Must not contain more than 3 bedrooms.*
- (3) *If part of a community or strata scheme, must have the prior written approval of the owners corporation for that scheme.*
- 35 (4) *Must be serviced by a general waste garbage bin and a recycling garbage bin.*
- (5) *Must have a fire blanket and fire extinguisher in the kitchen and evacuation lighting.*
- (6) *Any smoke alarm that is required to be installed under the Act must be powered from the mains electricity supply.*
- 40 (7) *Car parking must be provided on the land as follows:*
- (a) *for 2 bedrooms or less—1 car parking space,*
- (b) *for 3 bedrooms—2 car parking spaces.*
- Note. A driveway that can accommodate 2 vehicles complies with the car parking requirement for 2 car parking spaces.*
- 45 (8) *Council must be notified that the dwelling house is short-term rental accommodation.*
- (9) *Must not involve any moveable dwellings.*
- (10) *Signage (being at least A3 size) must be clearly displayed on the land to which the sign relates and contain the following:*
- 50 (a) *the name and telephone number (including an after hours telephone number) of the owner or property manager using a minimum 40mm high font,*
- (b) *wording to the effect that the dwelling house is short-term rental accommodation.*

[3] Dictionary

Insert in alphabetical order:

5 *short-term rental accommodation means a dwelling house, or part of a dwelling house, used for the purpose of tourist and visitor accommodation (other than bed and breakfast accommodation or farm stay accommodation) that is available for rent on a temporary basis.*

10 The clauses, although similar to what was drafted by Council, are not identical.

Clause 6.10 which will apply to development applications does not include provisions to limit the number of people per bedroom or exempt children from those calculations. The clause has been simplified to only the maximum number of bedrooms to 5 bedrooms. This may be in part
15 problematic for larger dwellings of 6 bedrooms or more, however, the limitation will provide a means to restrict those properties which have potential to become large party houses or de-facto function centres from getting an approval. In this regard earlier Council drafting of the clause was to limit the number of guests or occupants to 10 persons. At 2 people per bedroom, 5 bedrooms is consistent with that number.

20 Staff are also preparing a number of DCP amendments which will apply to development applications for STRA to compliment the LEP provisions. These DCP provisions can include limitations on the number of people per bedroom and exclusions for children under the age of 5 years, which would also become the basis of conditions of development consent if granted. This
25 would be an appropriate means of limiting numbers of guests.

In terms of the exempt provisions, a number of changes have been made including the removal of the bond, restrictions on visitors, hours of operation of outdoor areas, references to the Holiday Rental Code of Conduct, the complaint mechanism and the requirement for the property manager
30 to be contactable 24 hours of the day seven days per week. In terms of noise arising from parties and anti social behaviour, the use of dwellings for short term rental accommodation remains governed by the Protection of the Environment and Operations Act 1997. That is there is the ability for Council and the Police to enforce noise restrictions as required. In relation to the car parking provisions, the car parking rates are now included in subclause 8 to remove the need for
35 referencing in the DCP.

In regards to the limitation of 90 days for exempt development, this has been moved into Clause 6.10 establishing a criteria for when a DA is required. Clause 6.10(2) now specifically requires a
40 DA for a dwelling that is available for more than 90 days in a calendar year for STRA purposes.

Options

To progress this Planning Proposal it is requested Council note the report and the changes required by Parliamentary Counsel.

- 45 Alternatively Council can provide direction to staff to take a different course of action to either:
- A. Amend the planning proposal to remove the exempt provisions. The effect of this would require a development application for all properties being used for STRA. This could be an interim measure until such time as the LEP can be amended to put in place its preferred exempt provisions; or
 - 50 B. Continue to make further representations to the Department of Planning and Environment on the provisions sought.

Compliance Action

55 Council Resolution **15-186** endorsed an Action Plan for the introduction of planning controls for STRA.

Action 7 relates to a moratorium on taking compliance action in the 12 months following the introduction of the planning controls and seeks a resolution from Council to that effect.

- 5 The moratorium would not prevent Council from taking action against a property or land owner if complaints relating to noise or amenity issues are raised. It is recommended that Council endorse the proposed resolution to provide that 12 month moratorium.

- 10 The introduction of the planning controls and the moratorium for STRA will however have an impact on the planning and compliance areas of Council as staff will be required to manage development applications, and or complaints for STRA as they are made, in addition to the current work programs. Additional resourcing in these areas will be needed if staff are to meet statutory timeframes and other requirements in this regard.

15 **Parliamentary Inquiry**

- The NSW Government has held an inquiry into Short Term Holiday Letting in NSW. Council staff have made a written submission and provided verbal evidence to the Inquiry on the 7 March 2016. The Inquiry reported its findings to Parliament on the 19 October, 2016. A range of options were recommended from complying and exempt development, and development applications for short term rental accommodation and home sharing, depending on the scale of the development. It is unclear how soon the Department of Planning and Environment will act upon the recommendations and or introduce a State Environmental Planning Policy (SEPP) which would apply across all of New South Wales. However, it is noted the Department have 6 months to respond to the Inquiry's findings. Any new SEPP will then need to be exhibited with public consultation of the draft controls, before the Policy is made and introduced across New South Wales.

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.

- Existing staffing levels in planning and compliance will need to be reviewed following the introduction of the planning controls for STRA to ensure the timely and orderly assessment of development applications likely to be received, and enforcement of conditions of consent and or breaches of the LEP.

Statutory and Policy Compliance Implications

Council has followed the statutory process to amend Byron LEP 2014 through this planning proposal.

Conclusion

- The proposed drafting by the Parliamentary Counsel, although not achieving all of Council's aims for STRA, provides a legal means to begin regularising such properties. Council could defer making the LEP and wait for the Department of Planning and Environment to prepare a State-wide SEPP, however the timing on this is unclear and the controls in the SEPP may provide for a lesser regime of planning regulation than what is currently before Council. Support for the current drafting of the short term rental accommodation planning controls is warranted, and a review of the controls can be carried out in the future if and when a State-wide policy is introduced.

Report No. 13.8 PLANNING - Development Application 10.2016.254.1 - Secondary Dwelling at 6 Bayview Drive Goonengerry

Directorate: Sustainable Environment and Economy

Report Author: Rob Van Iersel, Consultant Planner
Chris Larkin, Major Projects Planner

File No: I2016/1011

Theme: Ecology
Development and Approvals

Proposal:

Proposal: Secondary Dwelling

Property description: LOT: 15 DP: 1177313
6 Bayview Drive GOONENGERRY

Parcel No/s: 241915

Applicant: Ms T Appleton

Owner: Mr G M & Mrs N J Childs

Zoning: Zone No. R5 Large Lot Residential / PART DM Deferred Matter

Date received: 28 April 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: 12 May 2016 to 25 May 2016
- Submissions: One (1) Submission

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

Planning Review Committee: N/A

Delegation to determination: Council (Councillor objection received)

Issues:

- Severed lot
- Objection from adjoining owner (Councillor)

Summary:

Development consent is sought for a secondary dwelling. The subject land is in two parts, being severed by Federal Drive. The existing dwelling is located on the eastern part of the land and the proposed secondary dwelling is located on the (vacant) western portion.

The secondary dwelling is a one-bedroom timber structure of approximately 59m², set just below the high point of the site. The high point is at about RL 49m, toward the north-eastern part of the site. The land falls sharply to the west and south, with a low point of around RL 44m. The site is cleared of vegetation, although adjoining land is heavily vegetated.

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 consistent with the provisions of Byron LEP's 1988 and 2014 and DCP's 2010 and 2014 and is not likely to result in significant impacts on the existing environment.

Although the property is split in two by Federal Drive, there are no specific provisions in such circumstances to prevent the secondary dwelling being sited as proposed. Similarly there is nothing to prevent Council from granting consent for a shed or studio on the site. Having regards to the small scale nature of the secondary dwelling, the application is recommended for approval subject to conditions of consent.

NOTE TO COUNCILLORS:

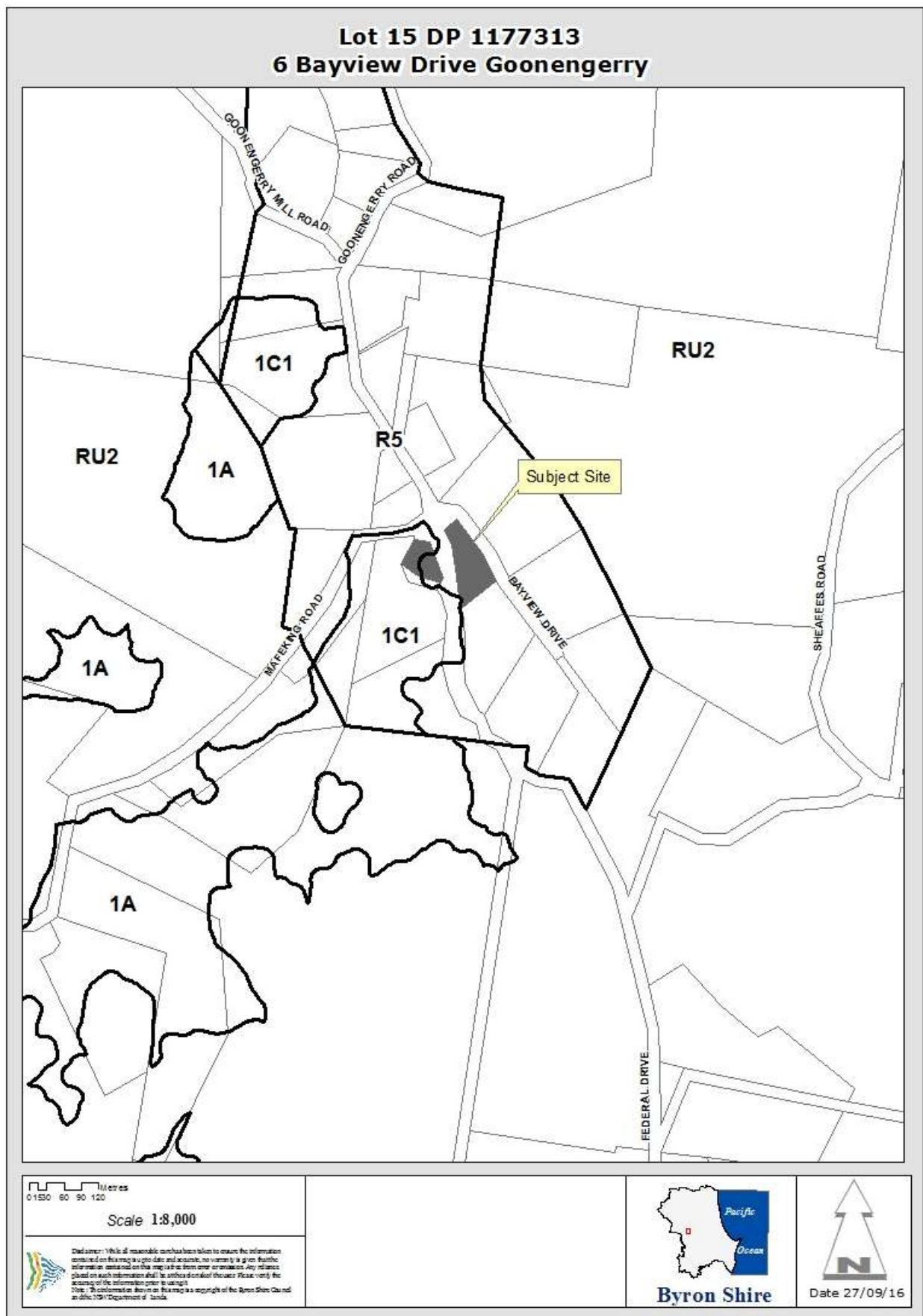
In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes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

RECOMMENDATION:

That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2016.254.1 for a secondary dwelling, be granted consent subject to the conditions in Attachment 2 #E2016/91316.

Attachments:

- 1 Proposed plans 10.2016.254.1 - prepared by Toni Appleton dated 27/4/16, E2016/91371
- 2 Conditions of consent 10.2016.254.1 6 Bayview Drive Goonengerry, E2016/91316
- 3 Confidential - submission 10.2016.254.1 6 Bayview Drive Goonengerry, E2016/91357



Report**1. INTRODUCTION****1.1 History/Background**

The existing dwelling house pre-dates Council records. The applicant has stated that the dwelling house was built in 1960. Alterations and additions were approved by Council under 6.1995.2157.1.

A large stable and outbuilding are also located on the site, for which there is no development application history.

1.2 Description of the site

Land is legally described as: Lot 15 DP 1177313
 Property address is: 6 Bayview Drive, Goonengerry
 Land is zoned: Part R5; Part DM (1(C1) Small Holdings Zone under BLEP 1988)
 Land area is: 9,583m²
 Land is constrained by: Dinking water catchment

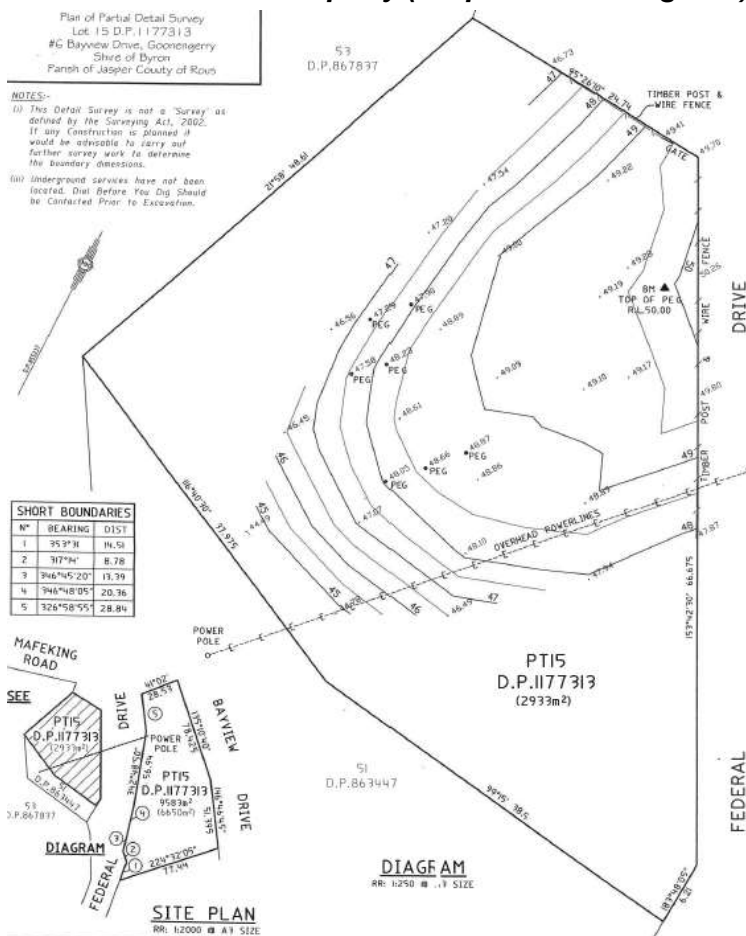
DP 1177313 was registered in July 2012 following the realignment of Federal Drive. Prior to that, Federal Drive ran to the west of the land, which was then severed by the road realignment. Following the realignment works, the old road was closed and a portion consolidated into the land to create the current configuration.

The property is an irregular shaped allotment that is fragmented by Federal Drive, Goonengerry. The larger portion of the site, located to the east of Federal Drive, contains the existing dwelling house and ancillary structures and is 6,650m² in area. The smaller portion is located to the west of Federal Drive, and immediately south of Mafeking Road and has an area of 2,933m².

The property contains a single-storey dwelling house and associated farm shed located on the eastern portion of the land, access via Bayview Drive. The western (severed) part of the land is vacant and cleared. The intersection of Federal Drive and Mafeking Road is at the northern boundary of this western parcel. The high point is at about RL 49m, toward the north-eastern part of the site. The land falls sharply to the west and south, with a low point of around RL 44m. The site is cleared of vegetation. An overhead electricity line traverses the site just to the south of the proposed building site, with an easement in place across the site, below the lines.

The site adjoins and is adjacent to other similarly zoned lots to the north, east and south, which contain residential developments i.e. dwelling houses and ancillary structures. The lots to the west and south are heavily vegetated with this vegetation identified as being primarily camphor laurel.

Western Portion of Property (Proposed Building Site)



5 The Property



View to Site from Federal Drive (SE corner toward building site)



View to Site from NE Corner of Federal Drive/ Bayview Drive Intersection
 5 ***(showing location of proposed access to secondary dwelling)***



1.3 Description of the proposed development

- 10 Development consent is sought for the construction of a secondary dwelling on the western portion of the site. The proposed secondary dwelling will be constructed out of timber framing on a steel subfloor, with 'weathertex' cladding and a colourbond roof. It consists of a living area/ kitchen, with a single bedroom and one bathroom. An external timber deck is proposed on the western elevation, with a carport on the eastern side. Access is proposed by way of a new driveway
- 15 located at the existing gate at the Federal Drive / Mafeking Road intersection.

The proposed secondary dwelling has a total floor space of approximately 58m². The external verandah and car port have not been included in this floor space calculation.

- 20 The proposed building is set 500mm above the highest point of the natural ground. Given the fall of the site, the south-west corner of the building will be approximately 2m above natural ground. The southern elevation will be located 20m away from the overhead electricity line easement.

2. SUMMARY OF REFERRALS

Development Engineer:

5 Further information was requested of the application in relation to access, given its location close to the Mafeking Road intersection and the cut batter along Federal Drive. The additional information provided demonstrates that adequate sight distance is available and that the driveway complies with relevant Australian and Council standards.

Environmental Health Officer:

10 In relation to the potential for site contamination, the site has been used for grazing cattle and horses. In the late 1990s, Council purchased a substantial portion of the property to construct the realigned section of Federal Drive. The construction involved a deep cutting, with the material from the cutting placed on the severed part of the allotment and compacted, increasing the level area of the site where it is proposed to construct the secondary dwelling.

15 There was no evidence of visual contamination during council's site inspection of 10 August 2016.

In relation to on-site wastewater, a report has been provided demonstrating that treatment and disposal can be appropriately managed.

20

3. SECTION 79BA – BUSH FIRE PRONE LAND

25 Under section 79BA of the Act, Council must be satisfied prior to making a determination for development on bush fire prone land, that the development complies with the document Planning for Bush Fire Protection 2006. The site is not bush fire prone land.

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

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

4.1 STATE/REGIONAL PLANNING POLICIES AND INSTRUMENTS

	Satisfactory	Unsatisfactory
State Environmental Planning Policy No 55—Remediation of Land	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: History of site and its use suggest very low probability of site contamination.		
State Environmental Planning Policy (Affordable Rental Housing) 2009	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: The secondary dwelling provisions of this clause are applicable to land in the R5 zone, and to land within a land use zone that is equivalent to the R5 zone. The 1(c1) Small Holdings zone is considered to be equivalent to the R5 zone and the SEPP provisions are therefore applicable to the entire site. The proposed development complies with the secondary dwelling provisions of this SEPP. Despite the property being severed by Federal Drive, the proposed development will result in a primary and secondary dwelling on one parcel of land, with a total land area that exceeds 450m ² . The floor area of the secondary dwelling is approximately 58m ² .		
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: BASIX Certificate supplied by applicant that is consistent with architectural plans.		

	Satisfactory	Unsatisfactory
State Environmental Planning Policy (Rural Lands) 2008	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consideration: The proposed development is generally consistent with the planning principals outlined in this SEPP.		

4.2 LOCAL ENVIRONMENTAL PLANS

The proposed location for this structure is located within two zones, being the R5 Large Lot Residential Zone and an area identified as Deferred Matter. As such, an assessment has been undertaken against both applicable local environmental plans and development control plans. This assessment is detailed below.

Byron Local Environmental Plan 1988

Zone: Zone No. 1(c1) – Small Holdings Zone

Definition: Dwelling house

In accordance with LEP 1988, a dwelling house is permissible with consent in the 1(c1) zone. However, Clause 15(2A), *consent may be granted to the erection of a dwelling-house on land to which this clause applies only if there is no dwelling already on the land.*

The secondary dwelling could not, therefore, be approved under BLEP 1988.

As noted above, however, State Environmental Planning Policy (Affordable Rental Housing) 2009 is applicable and provides that development for the purposes of a secondary dwelling is permissible with consent in the 1(c1) zone (this zone is equivalent to the R5 zone).

The SEPP takes precedent over the LEP in this regard.

The objectives of the 1(C1) zone are:

- (a) *to allow development of an essentially rural nature only in areas which, in the opinion of council, have adequate provision of services, are not so located as to jeopardise the efficient and economic future expansion of urban areas and where there will be no significant impact on agricultural activities or production,*
- (b) *to make provision for small rural holdings in appropriate locations and in response to a genuine demand,*
- (c) *to maintain a rural character in areas where small holdings are permissible,*
- (d) *to control by means of a development control plan the location, form, character and density of permissible development, and*
- (e) *to ensure that no development occurs within this zone until the likely impact of the development on the locality has been considered.*

The construction of the proposed secondary dwelling is considered to be generally consistent with these objectives. The site is located directly adjacent to the village of Goonengerry and is therefore an appropriate location for rural housing. The secondary dwelling will maintain the rural character of this locality, particularly as, given the severance of the property, it will have the appearance of a single dwelling on a cleared lot.

The following provisions of the LEP are applicable:

Clause 17 Dual Occupancy:

Part 4 of the clause applies to land zoned 1(c1) and provides that dual occupancy can only be undertaken where it involves the two dwellings within one building.

- 5 The proposed development does not comply with this requirement. As outlined above, however, the secondary dwelling provisions of SEPP (Affordable Housing) apply and provide for the permissibility of a secondary dwelling as a stand-alone building.

Clause 31 Development on ridgetops:

- 10 *The council shall not consent to the erection of a building or the carrying out of other development on or near any ridgeline on land to which this plan applies unless no alternative location for the building or other development is available.....*

- 15 The proposed secondary dwelling is located on a minor ridge, with the land falling steeply to the south-west. An alternative location for the secondary dwelling is available on the eastern portion, immediately south of the existing dwelling, but that would leave the severed western portion of land vacant.

- 20 Given the severance, it is difficult to use the severed western portion for any meaningful purpose other than for a dwelling. Locating the secondary dwelling on the eastern portion would detract from the character of the locality, providing the appearance of increased density of housing. In the circumstances, notwithstanding the size of the severed western portion, the location of the secondary dwelling on that site retains the rural character of the locality, with the appearance of a single dwelling on a block of land.

- 25 Where development is proposed on a ridge, clause 31 specifies the following considerations:

a) *whether there will be adequate existing or proposed landscaping, trees or other vegetation which assist or are likely to assist in mitigating visual impact, and*

- 30 A landscape plan has been submitted with the application and proposes mass plantings of rainforest species on the lower slopes of the site. Trees are also proposed along the Federal Drive frontage of the site. The landscaping as proposed will mitigate the visual impact of siting the secondary dwelling on the high point of the land.

- 35 b) *whether the proposed building design elements, materials of construction and proposed colours will mitigate potential adverse visual impact, including the reflectivity of materials to be used.*

- 40 The proposed secondary dwelling is a small single-storey timber and colourbond structure. It will not detract from the rural character of the locality.

Clause 40 Height:

The clause sets a height limit of 9m from the highest point of the building to the natural ground level. In this case, the height is approximately 6m.

- 45 The clause also specifies a maximum of 4.5m from natural ground to the floor of the topmost level. In this case, the maximum height from ground level to floor level is approximately 2m.

Clause 45 Provision of Services:

- 50 On-site sewage management is proposed and a report has been submitted to demonstrate that appropriate treatment and disposal measures will be implemented.

Water supply will be via harvesting of roof water. Electricity and telecommunications services are available to the site.

Byron Local Environmental Plan 2014

Zone: Zone No. R5 Large Lot Residential

5 **Definition:** *Secondary Dwelling*, which means 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 as the principal dwelling; and*
- c) *Is located within, or is attached to, or is separate from, the principal dwelling.*

10 Secondary dwellings are prohibited in the R5 zone. As noted above, however, State Environmental Planning Policy (Affordable Rental Housing) 2009 is applicable and provides that development for the purposes of a secondary dwelling is permissible with consent in the R5 zone.

The SEPP takes precedent over the LEP in this regard.

- 15 The objectives of the R5 zone are:
- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
 - *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
 - *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
 - *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

25 The secondary dwelling as proposed is considered to be consistent with these zone objectives. It will provide housing in a rural setting with minimal impacts in a locality that does not have potential for future urban development. It does not generate significantly increased demand for increased public services, and will not result in land use conflicts in the locality, as nearby uses are predominantly rural residential in nature.

30 **4.3 Height of Buildings:**

A 9m height limit applies in this locality. As outlined above, the highest point of the proposed building is approximately 6m.

35 **6.5 Drinking Water Catchments:**

The subject land is not close to local waterways. Stormwater and wastewater can be adequately managed on-site such that there will be minimal risk of discharge outside the site.

6.6 Essential Services:

40 Appropriate services are in place to support the proposed development. On-site wastewater management, stormwater and access provisions have been assessed by Council staff and determined to be acceptable.

45 **4.3 Any proposed Instrument that has been the subject of public consultation and has been notified to the consent authority**

There are no Draft EPI's applying to the subject site.

4.4A Byron Shire Development Control Plan 2010 (DCP 2010)

50

DCP 2010 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 79C(1) of the EP& A Act as part of the site remains zoned under Byron LEP 1988.

5 Part C Residential Development:

Rural setbacks: Required: 15m from road boundary;

Comment: Proposed - 15m, Complies.

10 Building design in rural areas: Council will not consent to the erection of a building within a rural zone that presents a stark visual contrast to its surroundings or otherwise detracts from the visual amenity of the area.

15 Comment: The proposed secondary dwelling is considered to be acceptable in terms of the visual character of the locality.

The proposed development raises no other issues under DCP 2010.

4.4B Byron Shire Development Control Plan 2014 (DCP 2014)

20 DCP 2014 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 79C(1) of the EP& A Act because it applies to the land to which Byron LEP 2014 applies.

25 Chapter D2 Residential Accommodation and Ancillary Development in Rural Areas

D2.2.2 Setbacks from Boundaries:

Required: 15m from road boundary;

30 Comment: Proposed - 15m; Complies

D2.2.3 Character and Visual Impact:

Where a building is visible from a public road, it must contribute to the rural and scenic character of the locality by means of good design, appropriate materials and effective landscaping

35 Comment: The building will be visible from Federal Drive and parts of Mafeking Road and Bayview Drive. It will have the appearance of a single dwelling on a cleared lot, albeit on a parcel somewhat smaller than others in the locality (being part of the larger severed parcel). Its small scale and the materials will ensure that the dwelling is not inconsistent with the rural character of this locality. A landscape plan has been provided, demonstrating that the landscaping of the currently cleared site will add to the rural character of the site over time.

D2.5 Dual Occupancies and Secondary Dwellings:

45 *Dual occupancy and secondary dwelling development in rural areas must be located so that it does not create potential for conflict with adjoining land uses.*

Comment: Adjoining and nearby land is predominantly rural residential in nature. There are no agricultural activities in close proximity to the site that could create a potential for rural land use conflicts.

50 *Dual occupancies and secondary dwellings in rural areas must be located and retained on the same legal title as the principal dwelling house on the property, and may not be excised by subdivision*

Comment: Notwithstanding the physical severance of the property, the two parts of the land form a single legal title. A condition is recommended making sure that the property cannot be subdivided in the future.

5 *Vehicular access to a dual occupancy and secondary dwelling development should comprise a shared driveway. Driveways must be located and designed to minimise danger to pedestrians and cyclists using the public road and to ensure that vehicles do not need to reverse into or out of the driveway*

10 **Comment:** Given the nature of the property, it is not physically possible for the secondary dwelling to share the driveway to the existing dwelling. The location of the proposed access, being close to the Federal Drive / Mafeking Road boundary, has been assessed and is demonstrated to be consistent with relevant Australian and Council standards.

15 *In assessing any proposal for dual occupancy and secondary dwelling development, particular consideration will be given to the topography and slope of the site, design to minimise loss of privacy, bushfire and environmental constraints, the visual impact of the proposal and the likely impact on water flows and drainage*

20 **Comment:** Privacy issues have been raised by an adjoining owner in a submission objecting to the development. Given the steep topography of the land, the secondary dwelling will look over the top of the adjoining dwelling, which is located significantly lower down the steep slope. There is currently mature vegetation located immediately across the boundary of the subject site, which currently would shield the existing downslope dwelling.

25 The submission points out, however, that some of that vegetation is located below the existing power lines, and is therefore subject to lopping by the electricity authority. The submission also points out that the majority of the existing vegetation is camphor laurel, which the owner is in the process of gradual removal and replacement.

30 While these points are noted, it is considered that the landscaping proposed within the subject site will grow over time to replace any existing vegetation lost by either the electricity line lopping or the gradual camphor laurel removal. The owner of the adjoining dwelling will have some control over this in terms of the timing of clearing camphor on the upper slopes of the property. In the
35 circumstances, it is considered that the privacy concerns are not warranted.

The proposed development raises no other issues under DCP 2014.

4.5 Any Planning Agreement or Draft Planning Agreement?

40

	Yes	No
Is there any applicable planning agreement or draft planning agreement?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Consideration:		

4.6 Environmental Planning & Assessment Regulation 2000 Considerations

Clause	This control is applicable to the proposal:	I have considered this control as it relates to the proposal:	If this control is applicable, does the proposal comply:
92	No	N/A	N/A
93	No	N/A	N/A

94	No	N/A	N/A
94A	No	N/A	N/A

** Non-compliances and any other significant issues discussed below*

4.7 Any coastal zone management plan?

	Satisfactory	Unsatisfactory	Not applicable
Is there any applicable coastal zone management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4.8 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

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

Conditions to apply in relation to hours of work, construction noise, builders waste and the like.

4.9 The suitability of the site for the development

The proposed building site is within a cleared parcel of land where appropriate services can be provided to the dwelling. Notwithstanding the severed nature of the property, the proposal complies with the requirements outlined in SEPP (Affordable Rental Housing) related to secondary dwellings, and is considered to be consistent with the relevant requirements of applicable LEPs and DCPs.

Having regard to the assessment contained in this report, the site is considered to be suitable for the proposed secondary dwelling.

4.10 Submissions made in accordance with this Act or the regulations

The proposal was notified in accordance with Part A: Preliminary of the Byron Shire Development Control Plan 2014. One (1) submission was received during the notification period as detailed below, made by the owner of the property bordering to the south. The dwelling located on that adjoining parcel is located downslope, approximately 70-80m from the property boundary of the building site.

Issue	Comment
<i>The area of land on my property from the adjoining fence line downslope to the existing dwelling on my property has and continues to be managed as an important services corridor with an easement for a service power line as well as an easement for an 11,000 kva transmission line. This zone is also maintained to ensure solar access to the north of the dwelling</i>	Given the distance and slope between the two dwellings, the proposed secondary dwelling will not impact on solar access to the existing dwelling.
<i>The long term management plan for my</i>	Noted. While complete clearing of that

<i>property includes removal of all camphor laurel in the service and solar access corridor. This project has been underway in stages over several years. Recently the remaining camphor laurel at the top of the slope has been controlled as part of a joint project with Essential Energy who are undertaking control works to remove acacia and camphor under the easements and power pole at the top of the property</i>	vegetation would expose a significant visual corridor between the new and existing dwelling, it is understood that total clearing is not proposed nor undertaken. Rather, vegetation is lopped if too close to power lines and camphor laurel is gradually removed and replaced with new planting. It is assumed that the adjoining owner has some level of control over the pace of the camphor removal.
<i>The long term management plan also includes a secondary dwelling to be located in the camphor control area ... being the only suitable location for a secondary dwelling due to the generally steep slope and other constraints</i>	Noted. Any future application would be assessed on its merits. There does not, however, appear to be any obvious reasons why the approval of the subject second dwelling would restrict the future development on the adjoining land, should that otherwise meet relevant planning requirements.
<i>(the proposed secondary dwelling is located on) highest point on prominent hilltop within context of Goonengerry village. Two storey as proposed is inappropriate in this location</i>	While the proposed dwelling will be elevated at its south-western end due to the slope, it is clearly a single storey structure and will present as such from surrounding roads.
<i>Comments in the SEE regarding vegetation screening the development from my downslope dwelling does not take account of ongoing vegetation control projects. Once these works have been completed it is likely that the living areas and veranda of the proposed dwelling will have a direct downslope view to my living areas and veranda.</i>	As indicated above, the land owner has control over the timing of the camphor laurel control/ removal works. Further, a landscape plan is proposed to be implemented on the development site that will result in vegetation downslope of the secondary dwelling that will provide a visual barrier.
<i>Living area within 20 metres of and overlooking future secondary dwelling on my property. This will be accentuated once ongoing vegetation control works are completed in the next few months</i>	While a secondary dwelling may be planned in the future, there is no building in place currently, nor any proposal before Council at the moment. It is therefore difficult to ascertain these impacts as indicated in the submission
<i>On severed lot with no primary dwelling. Does not have character of a secondary dwelling</i>	The secondary dwelling will present as a single dwelling. Notwithstanding this, it does meet the legislative and policy requirements for a secondary dwelling.
<i>Access point is within a couple of metres of intersection of Mafeking, and Federal Drive, blocking view lines and creating a hazard.</i>	Access has been assessed and meets the requirements of the relevant Australian and Council standards, ensuring that it will not create a traffic hazard.
<i>Should the development be supported as proposed it is recommended that a restriction be place on the title to ensure that no subdivision of the severed lot with Secondary dwelling can be undertaken in the future. Also that it be a condition of the development that it not be used for tourist accommodation. Building should have lower profile, but with no change to vegetation plan as this currently ensures that solar access is maintained for my property.</i>	Conditions are recommended prohibiting subdivision and tourism/ holiday letting use. It is not considered that a restriction on title is warranted in this regard. It is not considered necessary to require lowering of the building, as it is will not unduly restrict solar access to the adjoining building.

4.11 Public interest

The application is not expected to have any negative impacts on the environment or the amenity of the Goonengerry locality. It is considered appropriate with consideration to the zoning and the character of the area and is therefore considered to be in the public interest.

4.12 Section 5A of the EP&A Act – Significant effect on threatened species etc

Having regard to sections 5A, 5C and 5D of the EP&A Act, there is unlikely to be a significant effect on threatened species, populations or ecological communities, or their habitats as a result of the proposed development as there is no vegetation clearance proposed.

4.13 Section 5B of the EP&A Act – Have regard to register of critical habitat

The NSW Critical Habitat Register does not identify any critical habitat on or adjacent to the site.

5. DEVELOPER CONTRIBUTIONS**5.1 Water and Sewer Levies**

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

5.2 Section 94 Contributions

Council resolved on 14 April 2011 to not charge s94 contributions on secondary dwellings, subject to the following:

1. *That Council not charge Section 94 contributions for secondary dwellings under SEPP Affordable Housing Policy 2009 subject to the following requirements:*
 - a) *That the maximum size of the secondary dwelling or granny flat does not exceed 60sqm.*
 - b) *That the floor space ratio for the whole development of the site does not extend beyond the 0.5:1 and that 25% of the site must be covered by absorbent surfaces such as lawn or landscaping.*
 - c) *That the secondary dwelling or granny flat does not increase the overall number of bedrooms on the site to greater than 5.*
 - d) *That the applicant has applied for a secondary dwelling or granny flat and specifically advised that the development is not to be used for tourism purposes and accepts a condition of consent to the same effect.*
2. *That Council not charge Section 64 charges for secondary dwellings under SEPP Affordable Housing Policy, based on the above criteria.*
3. *That applicants who apply for the secondary dwelling or garden flat provisions be informed that they may be identified on a register to provide accountability of the uptake of this affordable housing approach and to assist in any compliance action that may need to be taken in the circumstance that the dwellings are being used for tourism purposes rather than meeting the need for affordable housing.*
4. *That the number of secondary dwellings or garden flats be reported in the Annual Report to be measured against the affordable housing SEPP objective to increase the supply of affordable housing.*

S94 &/or S64 Contributions - Council Policy	
Floor area of Secondary Dwelling: less than 60m²	Yes
Floor space ratio: Less than 0.5:1	Yes

Site; Minimum 25% absorption area	Yes
N ^o of Bedrooms. Maximum of 5 per site	Yes

The development is not to be used for tourism purposes and a condition of consent is recommended accordingly. The proposal meets the above criteria and as such, no section 94 contributions or section 64 levies are applicable.

6. CONCLUSION

Development consent is sought for the construction of a secondary dwelling. The subject land is in two parts, being severed by Federal Drive. The existing dwelling is located on the eastern part of the land and the proposed secondary dwelling is located on the (vacant) western portion.

The secondary dwelling is a one-bedroom timber structure of approximately 59m², set just below the high point of the site. The high point is at about RL 49m, toward the north-eastern part of the site. The land falls sharply to the west and south, with a low point of around RL 44m. The site is cleared of vegetation, although adjoining land is heavily vegetated.

The proposed development is consistent with the provisions of Byron LEP's 1988 and 2014 and DCP's 2010 and 2014 and is not likely to result in significant impacts on the existing environment. The application is recommended for approval subject to conditions of consent.

7. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

Has a Disclosure Statement been received in relation to this application	No
Have staff received a 'gift' from anyone involved in this application that needs to be disclosed. Where the answer is yes, the application is to be determined by the Director or Manager of the Planning, Development and Environment Division.	No

Report No. 13.9 PLANNING - 10.2016.347.1 Alterations and Additions to Existing Amenity Block (Suffolk Beach Front Holiday Park) at 143 Alcorn Street Suffolk Park

Directorate: Sustainable Environment and Economy

Report Author: Ben Grant, Planner

File No: I2016/1017

Theme: Ecology
Development and Approvals

Proposal:

DA No: 10.2016.347.1

Proposal: Alterations and Additions to Existing Amenity Block

Property description: PT: 100 DP: 1023737
143 Alcorn Street SUFFOLK PARK

Parcel No/s: 237911

Applicant: RLA Building Design

Owner: Byron Shire Council

Zoning: Zone No. RE1 Public Recreation

Date received: 9 June 2016

Integrated Development: No

Public notification or exhibition:

- Level 0 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications
- Exhibition period: N/A
- Submissions: Nil

Other approvals (S68/138): Water & Sewer (60)

Planning Review Committee: N/A

Delegation to determination: Council

Issues:

- Council Owned Land;
- Bushfire;
- Erosion Precinct 2;
- Flooding (Partial);
- Heritage Item (local Item no. I175).

Summary:

This application seeks development consent for alterations and additions to an amenities building at the Suffolk Beachfront Holiday Park, situated at 143 Alcorn Street, Suffolk Park. The proposed development is located on land owned by Byron Shire Council and is classified as community land.

The site is a listed heritage item of local significance under Byron Local Environmental Plan 2014 (item no. I175) however no impact on the heritage significance of the site is expected.

The land is affected by bushfire, flooding, class 3 acid sulfate soil and is within coastal erosion precinct 2. Due to the minor nature of the development, these constraints are unlikely to affect the construction or ongoing use of the building.

The proposed development is considered to be a suitable response to the site having regards to Byron Local Environmental Plan 2014 and Byron Development Control Plan 2014. No significant

impacts on the built or natural environment are expected and the application is recommended for approval subject to conditions of consent.

5 The development application is reported to Council for determination as it is on Council owned land.

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

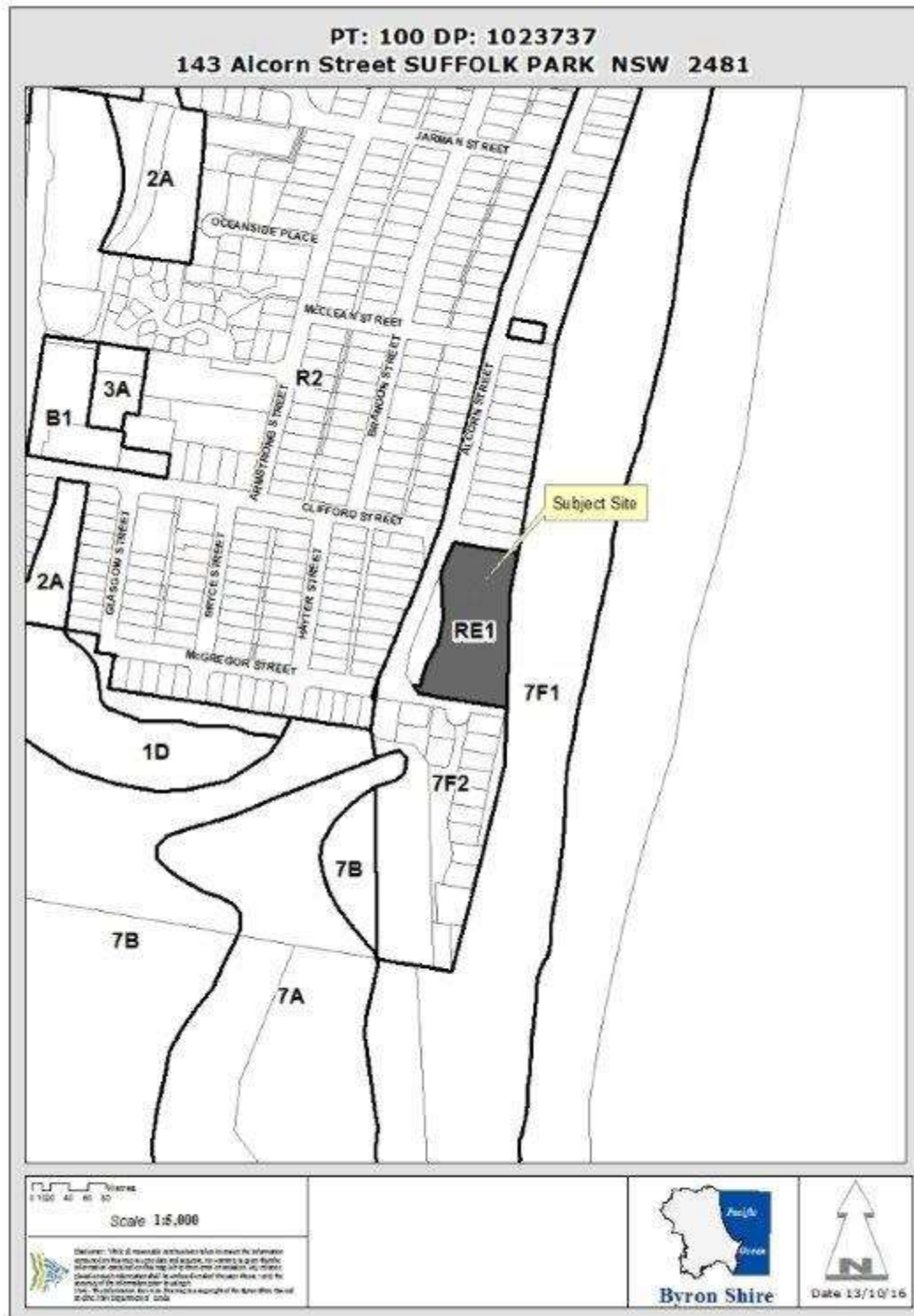
15

RECOMMENDATION:

That pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2016.347.1 for Alterations and Additions to Existing Amenity Block, be granted consent subject to the following conditions listed in Attachment 2 #E2016/91383.

Attachments:

- 20
- 1 10.2016.347.1 - Proposed Plans prepared by RLA Building Design dated November, 2015 at 143 Alcorn Street Suffolk Park , E2016/91486
 - 2 10.2016.347.1 - Conditions of consent at 143 Alcorn Street Suffolk Park, E2016/91383



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

The property has been used as a caravan park for a number of decades with a mix of caravan camping and permanent sites. The following extract is provided by Councils heritage officer:

"The parcel of land originally described on the subdivision plan of 1922 as 'Suffolk Park' was gifted to the community by the first European landowner, George Suffolk, for recreational purposes. Until March 1958, when ownership of the 'Suffolk Park' reserve land was transferred by deed to Byron Shire Council, in trust for the community, the land had been used informally by campers with the tolerance of the former owners, George and Walter Suffolk (son). Upon formation of the Suffolk Park Progress Association on 11 January 1959, the association undertook modification of the land until 1964, when the land was operated as a commercial caravan park, run by volunteers in the community. In the decade from 1964 to 1974, voluntary support for running the caravan park waned, and in 1974, Byron Shire Council made a decision to administer the operation of the park itself, and has continued to do so ever since, with the assistance of a committee of management."

1.2 Description of the site

The site is Lot 100 in DP 1023737, otherwise known as 143 Alcorn Street Suffolk Park. The site area is 1.36 Hectares with a 70m frontage to Clifford Street that provides vehicular access to the rest of the site.

On the site is the Suffolk Beach Front Holiday Park. The facility is located on Council owned land and houses a mix of permanent resident sites, caravan and camping sites, cabins and safari tents.

The existing amenities block, which is the subject of this application, sits on the eastern side of the park and consists of a single storey brick and tile building offering male and female toilet and showering facilities.

The site is zoned RE 1 Public Recreation under Byron Local Environmental Plan 2014 (BLEP 2014). It is constrained by bushfire, flooding, coastal erosion hazards and class 3 acid sulfate soils. Site photos are shown below.

Photo 1: Existing amenities block and proposed location of disabled toilet and access ramp..

Photo 2: Proposed location of awning and BBQ area.

**1.3 Description of the proposed development**

The applicants are seeking development consent for the following works:

1) Additions and alterations to an existing amenities block, including:

- 5 a. Construction of unisex toilet with semi-enclosed ramp and outdoor storage room;
 b. Installation of new bollards and outside shower facilities;
 c. Minor alterations to external brickwork;
 d. Construction of roofed patios over a new paved area, and a new BBQ area;

2. SUMMARY OF GOVERNMENT/EXTERNAL REFERRALS

	Summary of Issues
Water and Sewer Engineer	No Objection subject to Conditions of consent
Heritage Officer Comments	"It is considered that there are no adverse heritage issues in terms of impact upon the assessed significance of this site likely to arise from the proposal and that the upgrade of the facilities will enable ongoing and improvements for the public to continue to use this dedicated site".

2.1. SECTION 79BA – Consultation and development consent – certain bushfire prone land

15 Under S79BA 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 entire allotment is within the 100m bushfire buffer from a category 1 vegetation hazard located on the adjacent Crown reserve to the west.

20 The development is for additions and alterations to an amenities block (BCA class 10a) within a caravan and holiday park. The proposed works are minor and only affect the ancillary facilities within the park and not the accommodation component. Consequently, the proposed development is not considered to be a Special Fire Protection Purpose and a Bushfire Safety Authority under section 100B of the *Rural Fires Act 1997* is not required. Notwithstanding a bushfire assessment has been carried out in accordance with *Planning for Bushfire Protection 2006* and appropriate
 25 conditions of consent are recommended in terms of asset protection zones and emergency evacuation.

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

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

3.1. STATE/REGIONAL PLANNING POLICIES AND INSTRUMENTS

Requirement	Requirement	Proposed	Complies
NSW Coastal Policy 1997	Development within the Coastal Zone must be consistent with the Aims, Objectives and Strategic Actions of the Coastal Policy.	The proposed development is not in consistent with the relevant aims, objectives and actions of the Coastal Policy.	Yes
Building Code of Australia	The proposal must be capable of compliance with the structural and safety requirements of the Building Code of Australia.	The proposed building works are considered to be capable of complying with the BCA.	Yes
Demolition	Demolition works must be carried out in accordance with	Some demolition may be required to allow	Yes

	Australian Standard 2601 – 2001.	incorporate new works.	
Disability Access (DDA 1992)	Access for persons with disabilities and integration into surrounding streetscapes without creating barriers. (Council Res.10-1118)	The proposed recreation facilities are designed to be accessible and include accessible unisex toilet.	Yes
State Environmental Planning Policy No. 21 – Caravan Parks	(1) The aim of this Policy is to encourage: (a) the orderly and economic use and development of land used or intended to be used as a caravan park catering exclusively or predominantly for short-term residents (such as tourists) or for long-term residents, or catering for both, and (b) the proper management and development of land so used, for the purpose of promoting the social and economic welfare of the community, and (c) the provision of community facilities for land so used, and (d) the protection of the environment of, and in the vicinity of, land so used.	This policy is of limited relevance to this proposal as the application does not seek to change the existing number of sites or the manner in which they are used. The park amenities will be upgraded, allowing for better operation of the park.	Yes
State Environmental Planning Policy No. 44 – Koala Habitat Protection	Determine whether the land contains <i>potential koala habitat</i> (feed tree species constitute min 15% of upper or lower strata trees)	Council's GIS identifies some of the vegetated areas bordering and within the northern part of the property as being potential koala habitat (tertiary). The proposed works do not require any vegetation removal and do not increase the intensity of the use. The proposed works are not considered to result in any impact to potential or core koala habitat. A Koala Plan of Management is not required.	Yes
State Environmental Planning Policy No 71—Coastal Protection	Clause 7 requires Council to consider certain matters in determining a DA in the coastal zone. These are set out in Clause 8 of the SEPP.	The development will not impact on the scenic qualities of the coast or on wildlife corridors, water quality or Aboriginal heritage. It will not impact on public access or coastal processes.	Yes

		Stormwater and effluent will not be discharged to any beach or coastal estuary.	
--	--	---------------------------------------------------------------------------------	--

* Non-complying issues discussed below

3.2. BYRON LOCAL ENVIRONMENTAL PLAN 2014

- 5 **Zone:** Zone No. RE1 Public Recreation
Definition: Caravan Park and Camping Ground.

LEP Requirement	Summary of Requirement	Proposed	Complies
Meets zone objectives	<ul style="list-style-type: none"> To enable land to be used for public open space or recreational purposes. To provide a range of recreational settings and activities and compatible land uses. To protect and enhance the natural environment for recreational purposes 		Yes Yes Yes
Permissible use	<p><i>Caravan park</i> means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.</p> <p><i>Camping ground</i> means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.</p>	The proposed development is alterations and additions to a toilet and shower block which is part of the existing caravan and camping ground. The development is permissible with consent.	Yes
4.3 Height of buildings	The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. On this site that is 9 metres.	Height = 4.5m	Yes
4.4: Floor space ratio	The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. On this site that is 0.2:1 .	Floor Space Ratio = approx. 0.13:1	Yes
5.5 Development within the coastal zone	This clause requires that Council consider a range of issues for any development in the coastal zone. The	The development is for minor additions and alterations and is consistent with the requirements of clause 5.5.	Yes

LEP Requirement	Summary of Requirement	Proposed	Complies
	subject land is within the coastal zone.		
5.9: Preservation of trees or vegetation	A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by: (a) development consent, or (b) a permit granted by the Council.	No vegetation is proposed to be removed.	Yes
5.10 Heritage conservation	Clause 5.10 requires that development consent be obtained for: (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance): (i) a heritage item, (ii) an Aboriginal object, (iii) a building, work, relic or tree within a heritage conservation area,	The applicant is seeking additions and alterations to a listed heritage item of local significance (item no. I175). Pursuant to clause 5.10, the applicant is seeking development consent for then proposed works.	Yes

** Non-complying issues discussed below*

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

5

There are no draft EPI's which affect the proposal.

3.3 DEVELOPMENT CONTROL PLANS

10

Development Control Plan 2014

DCP Clause	Requirement/ Comment	Complies?
Part B Controls Applying Generally to Development Applications		
B2 Preservation of trees & other vegetation	No vegetation is proposed to be removed.	Yes
B3 Services	Adequate service provision, stormwater management, sedimentation and erosion control	Yes

	(subject to conditions).	
B4 Traffic Planning, Vehicle Parking, Circulation and Access	The proposed development does not increase demand for parking, or interfere with the existing internal access.	Yes
B6 Buffers & Land Use Conflict	No land use conflicts requiring additional buffering identified.	N/A
B8 Waste Minimisation & Management	Details have not been provided strictly in accordance with Section B8, however, given the low-risk nature of the proposal a condition requiring the submission of a SWMP prior to the issue of a Construction Certificate is considered acceptable in this particular instance.	*Condition
B9 Landscaping	No landscaping plan is required. The works are minor additions and alterations to an existing amenities block.	Yes
B13 Access & Mobility	The proposed development includes accessible ablutions.	Yes
B14 Excavation & Fill	No excavation is proposed.	Yes
Part C Further Controls, Specific Constraints & Environmental Characteristics		
C1 Non-Indigenous Heritage	<p><u>C1.5.1 New Development in the Vicinity of a Heritage Item</u></p> <ul style="list-style-type: none"> • Must not compete with elements that contribute to the heritage significance of the heritage item. • Must not visually dominate or be incompatible with the form of the heritage item. • Scale, form, bulk and detail must not detract from the unity, cohesion and predominant character of the heritage item. • New development should be kept simple and not use a mixture of features from different eras. <p><u>Comment:</u> The entire site is a listed heritage item of local significance under BLEP 2014 (item I175). Council's heritage advisor made the following comments in relation to the history and significance of the site.</p> <p><i>"This item is a rare example in the Shire of land that was provided as open space for the community by a private landowner. Its significance derives from its association with the earliest European settlement of Suffolk Park, and with a pioneer family of the district".</i></p> <p>The proposed work is of a minor nature and is unlikely to have any substantial impact on the heritage significance of the site. Council's heritage advisor made the following recommendation in relation to the proposed works:</p> <p><i>"It is considered that there are no adverse heritage issues in terms of impact upon the assessed</i></p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	<i>significance of this site likely to arise from the proposal and that the upgrade of the facilities will enable ongoing and improvements for the public to continue to use this dedicated site”.</i>	
C2 Areas Affected by Flood	<p>Council’s GIS indicates that the amenities block is partially below the 1% AEP flood level. Table C2.1 of BDCP 2014 provides the following requirements for non-habitable buildings in flood prone areas:</p> <ul style="list-style-type: none">• <u>Minimum Floor Levels:</u> 10 year flood level plus 0.3m.• <u>Building Components:</u> Buildings to have flood compatible material below the relevant FPL.• <u>Structural Soundness:</u> Must still comply with BCA. <p>There is no accurate data to indicate if the existing floor levels comply with the 10 year FPL. The finished floor level of the existing and proposed toilets is approximately 700mm above natural ground level. Given that Council’s flood mapping only indicates a partial inundation during a 1% flood event, the existing building is very likely able to comply with 10 year FPL requirement. The flood risk for the site is deemed to be very minor and of a low risk. No special requirements for flooding are deemed appropriate in the circumstances.</p>	Yes
C3 Visually Prominent Sites and View Sharing	The site is within the Coastal Zone however, it will not be visible from the foreshore or impact on any significant views from adjoining properties.	Yes
Chapter E1 Suffolk Park		
E1.2.1 Character, Bulk and Scale of Development	Character, bulk and scale is compatible with the low rise coastal residential character and scale of Suffolk Park;	<u>Comment:</u> The alterations and additions are of a minor nature. No significant impact is expected.
E1.2.9 Development and servicing of land affected by predicted coastal hazards	All services must be provided from the landward side of the development such that the building is between the services and the erosion escarpment.	<u>Comment:</u> provision of new facilities is generally on the landward side of the building.
	Development within the ‘Coastal Erosion Hazard Area’ will be considered on the understanding that any consent granted will be subject to the proviso that should the erosion escarpment come within 50 metres of any building then the development consent will cease.	<u>Comment:</u> A condition is recommended requiring the development to cease if the coastal erosion escarpment comes within 50 metres of the building.

	<p>Imposition of a Section 88E Instrument on the Title notifying that the consent is to cease and the buildings are to be removed.</p>	<p>Given the minor nature of the development, and being public land owned and managed by Council, there is no specific need to impose a requirement for the Section 88E instrument for this development. In the event the building and the park is threatened by coastal erosion the consent will cease and the building will need to be demolished as per the recommended condition.</p>
--	----------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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

Impact on:	Likely significant impact/s?
Natural environment	No significant impacts on the natural environment will occur.
Built environment	No. The development is minor alterations and additions to an amenities block. No changes to any other parts of the park are proposed.
Social Environment	No. The development has no adverse social impact.
Economic impact	No. The development is unlikely to cause any significant economic impacts.

5

3.5 The suitability of the site for the development

10 The site is constrained by flooding, bushfire, class 3 acid sulfate soils and coastal erosion. Notwithstanding these constraints, the development is for minor alterations and additions to an amenities block which already exists on the site. None of the above mentioned constraints will affect the construction carrying out of the development for its intended use. The site is considered suitable for the development.

3.6 Submissions made in accordance with this Act or the regulations

15

The development application was not publicly advertised and no submissions were received.

3.7 Public interest

20 The development does not compromise the public interest and will provide improved amenities for the patrons of the caravan park.

4. DEVELOPER CONTRIBUTIONS

25 There is no nexus to levy S94 Contributions or headworks charges in this instance.

5. CONCLUSION

30 This application seeks development consent for alterations and additions to an amenities building at the Suffolk Beachfront Holiday Park, situated at 143 Alcorn Street, Suffolk Park. The proposed development is located on land owned by Byron Shire Council and is classified as community land.

The land is affected by bushfire, flooding, class 3 acid sulfate soil and is within coastal erosion precinct 2. Due to the minor nature of the development, these constraints are unlikely to affect the construction or ongoing use of the building.

- 5 The proposed development is considered to be a suitable response to the site having regards to Byron Local Environmental Plan 2014 and Byron Development Control Plan 2014. No significant impacts on the built or natural environment or the heritage significance of the site are expected and the application is recommended for approval.

10 **6. RECOMMENDATION**

- 15 **It is recommended that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2016.347.1 for Alterations and Additions to Existing Amenity Block, be granted consent subject to the following conditions listed in Attachment 2 #E2016/91383.**

7. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

Has a Disclosure Statement been received in relation to this application	No
Have staff received a 'gift' from anyone involved in this application that needs to be disclosed. Where the answer is yes, the application is to be determined by the Director or Manager of the Planning, Development and Environment Division.	No

Report No. 13.10 Report of the Planning Review Committee Meeting held on 13 October 2016

Directorate: Sustainable Environment and Economy

Report Author: Chris Larkin, Major Projects Planner

File No: I2016/1086

Theme: Ecology
Development and Approvals

Summary:

This report provides the outcome of the Planning Review Committee Meeting held on 13 October 2016.

RECOMMENDATION:

That the report be noted.

Report:

The meeting commenced at 1.00pm and concluded at 2.00pm.

- 5 Present: Crs Richardson, Hunter, Lyon, Hackett, Ndiaye, Cameron, Martin
Staff: Chris Larkin (Major Projects Planner).
Apologies: Cr Coorey

Development Applications

- 10 The following development application was reviewed with the outcome shown in the final column.

DA No.	Applicant	Property Address	Proposal	Exhibition Submissions	Reason/s Outcome
10.2016.575.1	Planners North Pty Ltd	469 Middle Pocket Rd Middle Pocket	Rural Industry (Micro Distillery) and Industrial Retail Outlet	Level 1 8/9/16 to 28/9/16 22 submissions	The number of public submissions The validity of the matters raised in the public submissions The lack of policy to direct determination The perceived public significance of the application Report to Council for determination.

Report No. 13.11 **Byron Bay Town Centre Masterplan Leadership Team**
Directorate: Sustainable Environment and Economy
Report Author: Shannon Burt, Director Sustainable Environment and Economy
File No: I2016/1090
5 **Theme:** Ecology
 Planning Policy and Natural Environment

Summary:

10 The purpose of this report is to seek Council endorsement to form a Byron Bay Town Centre Masterplan (BBTCMP) Leadership Team.

15 This initiative is derived from the BBTCMP delivery framework.

RECOMMENDATION:**1. That Council establish a Leadership Team :**

- To provide advice and direction on the delivery of the BBTCMP actions;
- To identify and actively facilitate, where appropriate, opportunities for partnerships and community collaboration;
- To provide oversight on the timely delivery of actions that are responsive to community needs, acknowledging that the actions of the BBTCMP are flexible and adaptable.

2. Endorse the 'Terms of Reference' for the Leadership Team as provided for in the report.**3. That the Leadership Team be comprised of the Mayor, General Manager or delegate and up to 15 community members to be selected by a direct appointment and or EOI process.****4. Staff progress the Leadership Team membership selection process as per 3 above, and report back the outcome to Council on this at the December Ordinary meeting.**

Report

Council resolved at its Ordinary Meeting June 2016 to adopt the BBTCMP:

http://www.byron.nsw.gov.au/files/publications/bbtcm_final.pdf

Critical to the delivery of the masterplan, is strong governance and successful Implementation. The masterplan proposes to establish an inclusive and committed Byron Bay Leadership Team, comprising a select group of council representatives, independent experts and engaged members of the community. This team will be tasked with guiding the implementation of the masterplan and engaging with the community into the future.

At the Councillor workshop on 22 September 2016, the Mayor requested staff to complete a report on the composition of this group and expression of interest process for Council consideration at the 27 October 2016 meeting.

Proposed BBTCMP Leadership Team - Terms of Reference

The Terms of Reference for the Leadership Team are provided below:

The BBTCMP Leadership Team will meet as required to:

- To provide advice and direction on the delivery of the BBTCMP actions;
- To identify and actively facilitate, where appropriate, opportunities for partnerships and community collaboration;
- To provide oversight on the timely delivery of actions that are responsive to community needs, acknowledging that the actions of the BBTCMP are flexible and adaptable.

The term of the Leadership Team shall be for the term of the current Council. The Council may review the composition and or function of the Group at any time.

Membership will comprise of:

- Mayor
- GM and or delegated representative
- Council Officer (Place Coordinator)
- Up to 15 community representatives

Relevant Council staff will also be invited to attend meetings, as required, to provide updates on various projects.

Administration for the Leadership Team meetings will be managed through the Mayor's / GMs office.

Meetings of the Leadership Team will be as determined by the Mayor / General Manager.

There are 2 ways to which community positions on the Leadership Team will be appointed:

1. By Council appointing directly interested representatives from the former Bounce Group; and
2. By Council appointing through this Expression of Interest (EOI) process any remaining positions, with membership to cover a broad range of community interests including:

Residential community group
Indigenous community

- 5 Community services
Town centre business
Town centre commercial property owner
Tourism industry
Creative industry
Design and planning industry
Sustainability, history and culture
Youth and education
- 10 It is expected that the EOI will be called before the end of the year, followed by a report to Council to determine membership.
- Selection Criteria for membership will include:
- 15 •Topical knowledge
•Connection to groups within the community or strong network of stakeholders
•Availability and commitment to attend - workshops/meetings, online communication
•Capacity to access web based communication programs
•Connection to the Byron BayTown Centre and a selected category
- 20 **Financial Implications**
- Nil.
- 25 **Statutory and Policy Compliance Implications**
- Nil.

STAFF REPORTS - INFRASTRUCTURE SERVICES

Report No. 13.12 Property NSW Intended Sale of Lot 60 DP 817888 Beech Rd, Suffolk Park - Community Implications of pending disposal

Directorate: Infrastructure Services
Report Author: Michael Matthews, Manager Open Space and Resource Recovery
File No: I2016/1085
Theme: Community Infrastructure
 Open Space and Recreation

Summary:

Property NSW has advised Council of its intention to dispose of Lot 60 DP817888, Beech Drive (refer Figure 1). Council has considerable formal interest in this land through a Deed of Licence between Council and the Department of Education. Significant Council investment into community infrastructure has occurred within the licenced area (refer Figure 2) and is considered by the community as a critical sporting and recreational asset to the community. Loss of such an asset is expected to have considerable impacts to the local community both directly and indirectly. The licenced area is currently highly utilised by the community for passive and active recreation and well being.

In addition, Open Space within Suffolk Park is significantly limited, with this area being the only sports field within this community, ideally positioned as adjoining Council owned Community land that is also subject to significant community infrastructure investment, namely tennis courts, skate park, shaded playground, shelters and associated infrastructure.

The 'best available use' directive by NSW Premier and Cabinet to Property NSW has resulted in a purchase price that is considered to be outside Council financial capacity to enter into negotiations for the private treaty sale. The price presented assumes rezoning of the land from Special Purpose SP2, Education Infrastructure to R2 Low Density Residential. This rezone assumption establishes a valuation price that is based on a residential subdivision that has potential to yield 34 residential lots.

Staff believe the considered change in material use of this land to low density residential is inappropriate on this site and would not be in the best interests of the Community. It is believed that an appropriate rezone for this land that enables disposal by the State is RE1, Public Recreation and on that basis, valuation should be made. It is believed that a revised valuation has potential to enable Council to consider purchase from the State utilising funds from Suffolk Park s94 account.

RECOMMENDATION:

That Council make representation to the Minister for Planning requesting:

- 1. That the imminent sale be placed on hold whilst Council seek an independent valuation of the land on the basis of a RE1 zone with a General Community Use / Sports Field categorisation.**
- 2. That given acceptance by the Minister, a report detailing the independent valuation be brought before Council to further advance securing this essential asset for the community.**
- 3. In the event that the above notion is not supported by the Minister, that Council further**

writes to the Minister requesting that sale not be progressed without the land firstly being appropriately rezoned after community consultation provisions under the Environmental Planning and Assessment Act has been completed.

- 4. That financial allocation of \$5,000 from s94 funds for the engagement of an independent valuation of the property be approved.**

Report

Council has been advised of the intended imminent disposal of Lot 60 DP817888, in which Council has significant formal and informal interest. Formal interest includes licenced tenure over part Lot 60 DP817888 (refer Figure 1 below) with built infrastructure that includes a access road, sports field, cricket nets, park shelters, car park and associated infrastructure.

Figure 1 Land subject to imminent disposal



Figure 2 Licenced area between Council and the Department of Education



Background to Sports Field and Associated Infrastructure Development

In 2001, Council undertook a feasibility study to provide much needed sporting fields for the Suffolk Park community. Through this study it became apparent that land available to Council to provide sporting fields within Suffolk Park was inadequate. In order to progress the provision of these

much needed facilities, Council approached the Department of Education with a view to investigating whether it would be interested in making part or the whole of its land at Suffolk Park available to Council for the provision of sporting fields.

- 5 Representation from Council was made to the Department of Education in December 2001; this representation included securing licenced tenure to enable the construction of a sports field on part Lot 60 DP 817888.

- 10 A Deed of Licence was executed on 1 April 2004 for a term of five years with two (2) options of renewal. The current Deed of Licence has a termination date of 31 December 2018, with no more options available under the Deed for extension. The annual licence fees are \$1.00 per year if demanded.

- 15 On 23 August 2012 Council received a proposal from the Suffolk Park Progress Association Inc to construct a community garden, children's bike course and mini sports field within the balance of Council's licensed area over part Lot 60 DP 817888.

- 20 On 6 December 2012 Council considered a report titled '12.3 Proposed Projects for Suffolk Park Section 94 funds', which included the abovementioned proposal. Council resolved:

12-949 (in part):

That Council enter into negotiations with the Department of Education to secure an extension to the existing licence for part Lot 60 DP817888.

- 25 *That Council enter into negotiations with the Department of Education to secure licence for the remainder of Lot 60 DP817888.*

- 30 Negotiations between Council and the Department of Education failed to secure tenure over the balance of Lot 60 DP817888 and achieve an extension to the Deed of Licence beyond 31 December 2018.

Surrounding Land

- 35 Adjoining land includes low density R2 residential and Council owned Community land. Council owned Community land includes community infrastructure such as Suffolk Park tennis courts, skate park, playground and amenities block and associated Open Space infrastructure. The adjoining land also contains high environmental value protected vegetation.

Community Use of the Land

- 40 The licenced area currently supports a large range of active and passive sport and recreation including but not limited to:

- formal use by the Suffolk Park Football Club (subject to a seasonal User Agreement with Council) which has a current membership of 75 (3 men's teams, 1 women's team, and 3-4 junior teams), with training occurring on the field five days per week
- 45 • cricket nets utilised by the community five days per week
- social and recreational use of grounds seven days per week, which includes frisbee, yoga, personal exercise and other

- 50 In addition to the above use, supported under terms of the Deed of Licence, local community members operate a community garden on the balance of the Department of Education. Although this activity is unsupported by Council as no tenure has been granted, it does highlight the community's desire and considered additional value in this land.

This licence area and adjoining Community land is considered by the community as essential to the local community for recreation and sporting activities and gives a sense of community and wellbeing for all.

- 5 It is understood that the Suffolk Park Progress Association has recently made representation to the Member for Ballina, Tamara Smith seeking support to retain this community asset after becoming aware of the Department of Education's disposal intentions.

Disposal Representation

- 10 In April 2016, Council was approached by Property NSW on behalf of the Department of Education to discuss potential disposal of the property. Council staff met on site with Property NSW on 18 May 2016. Advice was received at this meeting of the Department's intended disposal of the land and its Cabinet direction to secure a "best available use" sale price for the land. DCP constraints and vegetation restrictions on the North West portion of the Lot were highlighted to the
15 Department.

- On 30 June 2016 Government Property NSW (GPNSW), on behalf of the Department of Education (Education), made further representation to Council to enter into negotiations for the private treaty sale of the property direct from Education to Byron Shire Council and requested that if Council is
20 interested in acquiring the site in this manner that they make representation in writing to GPNSW within 14 days.

Private treaty sale was offered at \$4.8 Million (excluding GST).

- 25 Council advised on 15 July that it did not have the financial capacity to purchase the land at the price presented and requested information regarding intended disposal timeframes.

Advice received on 5 October 2016 from the Department advised the following:

- 30
- *"To ensure that Council and the local community can continue to use the area for a sporting field for the licence term, as part of the sale we will organise for this licence to remain on foot until its expiry in 2018."*
- 35
- *The contract of sale will contain a clause obliging the purchaser to enter into a new licence with Council for the balance of the licence term from settlement. Attached to the contract will be a new licence agreement based upon the existing terms but with necessary changes to reflect the change of ownership.*
- 40
- *The purchaser will be required to sign the new licence and provide it to GPNSW on settlement. This new licence will be forwarded to Council for execution.*
- 45
- *We believe this is a fair outcome for the community that allows the existing licence to remain in place until its original expiry date. Should you wish to discuss any of the above in further detail please do not hesitate to contact me."*

All indications from the Department are that valuation and intended sale of the land is on the basis of 'best available use' with an R2 zone, Low Density Residential, which earmarks the land for private, residential development.

Planning Framework

Lot 60 on DP 817888 is currently zoned SP2. The valuation presented to Council staff assumes a Land Zone of R2, Low Density Residential.

Where land is to be rezoned, the Gateway process involves the following five (5) steps:

1. the planning proposal - the relevant authority prepares the planning proposal. The relevant authority is usually the local council, however the Minister can appoint the Secretary of the Department of Planning and Environment or a joint regional planning panel to be the relevant planning authority.
2. Gateway - the Minister (or delegate) decides whether the planning proposal can proceed (with or without variation) and subject to other matters including further studies being undertaken, public consultation, public hearings, agency consultation and time frames. A planning proposal does usually not proceed without conditions of this nature. The conditions are then complied with and if necessary, the proposal is changed. A decision on whether the relevant council is able to finalise particular types of LEPs is also determined at this stage.
3. Community consultation - the proposal is publicly exhibited as required by the Minister. A person making a submission may also request a public hearing be held
4. Assessment - the relevant planning authority reviews public submissions. Parliamentary Counsel then prepares a draft local environmental plan
5. the making of the LEP - with the Minister's (or delegate's) approval, the local environmental plan is published on the NSW legislation website and becomes law

It should be noted that despite the above adopted framework, it is understood that the Minister has the ability to rezone land at his / her discretion without completing all of the above steps.

Financial Implications

A Specialised Property Valuer to prepare an independent property valuation report for Council requires a budget of \$5,000.

Statutory and Policy Compliance Implications

N/A

CONFIDENTIAL REPORTS - INFRASTRUCTURE SERVICES

Report No. 15.1 CONFIDENTIAL - Tender 2016-0025 Byron Resource Recovery Centre Plant Hire Evaluation Recommendation

Directorate: Infrastructure Services
Report Author: Lloyd Isaacson, Team Leader Resource Recovery and Quarry
File No: I2016/1041
Theme: Community Infrastructure
Waste and Recycling Services

Summary:

On 3 August 2016, under delegated authority, the General Manager approved the use of the open tendering method to call for tenders for Contract 2016-0025 Byron Resource Recovery Centre Plant Hire.

Tenders have been assessed in accordance with the provisions of the Local Government (General) Regulation 2005. This report summarises the background and assessment of the tenders and provides a recommendation to award the tender for Contract 2016-0025.

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 2016-0025 Byron Resource Recovery Centre Plant Hire Evaluation Recommendation .
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:
 - (a) disclosure of the confidential information could compromise the commercial position of the organisations involved and prejudice the process of engagement of a tenderer to carry out the required services

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 2016-0025 Byron Resource Recovery Centre Plant Hire Evaluation Recommendation 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 - CONFIDENTIAL Tender 2016-0025 Assessment Panel Recommendation Report, E2016/88385