



Byron Shire Council



Agenda Ordinary (Planning) Meeting

Thursday, 11 March 2021

held at Council Chambers, Station Street, Mullumbimby
commencing at 11.00am

Public Access relating to items on this Agenda can be made between 11.00am and 11.30am 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.

Mark Arnold
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 Code of Conduct for Councillors (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 the Code of Conduct for Councillors.

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.

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 of the provisions in the Code of Conduct (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 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.

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BUSINESS OF ORDINARY (PLANNING) 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 (CL 4.9 CODE OF CONDUCT FOR COUNCILLORS)**
- 6. ADOPTION OF MINUTES FROM PREVIOUS MEETINGS**
 - 6.1 Ordinary (Planning) Meeting held on 11 February 2021
- 7. RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS**
- 8. MAYORAL MINUTE**
- 9. NOTICES OF MOTION**

Nil
- 10. PETITIONS**
- 11. SUBMISSIONS AND GRANTS**
- 12. DELEGATES' REPORTS**
- 13. STAFF REPORTS**

Sustainable Environment and Economy

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14. QUESTIONS WITH NOTICE

Nil

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

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

Report No. 13.1 PLANNING - 24.2018.10.1 DCP 2014 Chapter B2 Tree and vegetation Management submission report

Directorate: Sustainable Environment and Economy

Report Author: Alex Caras, Land Use Planning Coordinator

File No: I2021/248

Summary:

Under State Environmental Planning Policy (Vegetation in non-rural areas) 2017 (Veg SEPP), vegetation must be declared within a Development Control Plan (DCP) for Council to administer vegetation removal through a tree removal permit system.

The Byron Shire Draft DCP 2014 Chapter B2 Tree and Vegetation Management update now includes the provisions required under the Veg SEPP and applies to vegetation removal on all non-rural land (including E zones). Placed on public exhibition for 28 days, Draft DCP 2014 Chapter B2 received no submissions. As a result, this report presents Chapter B2 Tree and Vegetation Management (Attachment 1) for adoption.



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 adopt the Draft Development Control Plan 2014 Chapter B2 Tree and Vegetation Management contained in Attachment 1, E2020/102196.**
- 2. That Council publish Chapter B2 on its website and notify the public as required by the Environmental Planning and Assessment Act and Regulation.**

Attachments:

- Final DCP Chapter B2 Tree and Vegetation Management version for adoption, E2020/102196 
- Form of Special Disclosure of Pecuniary Interest, E2012/2815 

Report

As noted within the previous [report](#) to Council on 19 November 2020, State Environmental Planning Policy (Vegetation in non-rural areas) 2017 (Veg SEPP) manages vegetation removal in all non-rural areas *including E zones* that does not involve or is ancillary to development.

Given the Shire's recently gazetted E2 and E3 zoned areas, Draft Development Control Plan (DCP) 2014 Chapter B2 Tree and Vegetation Management has been updated to reflect the requirements of the Veg SEPP. Declared vegetation within a DCP authorises Council to:

- administer Tree Removal Permits for the removal of vegetation, and
- act as the consent authority for compliance.

Delivering Action 1.2 within the Biodiversity Conservation Strategy 2020-2030, DCP 2014 Chapter B2 will only apply to the removal or pruning of vegetation that is under the Biodiversity Offsets Scheme (BOS) threshold.

The resolution from 19 November 2020 Council (Planning) Meeting, ([Res 20-617](#)) states:

1. *That Council endorses the draft Development Control Plan Chapter B2 Tree and Vegetation Management (Attachment 1 #E2020/67970) for public exhibition for 28 days.*
2. *That staff provide a post-exhibition report to Council on item 1 that:*
 - a) *gives consideration to and makes recommendations on submissions received during the exhibition period, and*
 - b) *provides a new section that ensures landholder revegetation projects including ongoing projects in R5, E2 and E3 zones do not have to incur additional costs or barriers that act as a disincentive to responsible land management that restores, expands and enhances biodiversity.*
3. *That staff update Development Control Plan 2014 Part A to include the definitions contained within Development Control Plan Chapter B2 Tree and Vegetation Management post public exhibition.*
4. *That the public exhibition draft referred to in (1) include information regarding the proposed amendment referred to in 2(b) in order that submitters have the opportunity to make comment.*
5. *That an agenda item on this matter be included for a Strategic Planning Workshop. (Richardson/Spooner)*

In response to points 2 and 4 above, Staff added two further exemptions within the Draft DCP 2014 Chapter B2 (page 9) B2.2.1 Exemptions (as below):

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9. Vegetation removal that is subject to works under an approved Vegetation Management Plan or Biodiversity Conservation Management Plan.
10. Restoration activities undertaken by landholders applying current 'best practice' camphor conversion techniques (e.g. Subtropical Rainforest Restoration 3rd Edition, Big Scrub Landcare).

DCP 2014 Chapter B2 was placed on public exhibition for 28 days. No submissions were received.

Next steps

- Adopt the Draft Development Control Plan (DCP) 2014 Chapter B2 Tree and Vegetation Management.
- Update DCP Chapter A with the definitions contained within DCP 2014 Chapter B2 Tree and Vegetation Management.
- Amend Council's Tree Removal Permit form to align with DCP 2014 Chapter B2 Tree and Vegetation Management and the new Veg SEPP.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 3: We protect and enhance our natural environment	3.1	Partner to protect and enhance our biodiversity, ecosystems and ecology	3.1.1	Protect and enhance our natural environment and biodiversity	3.1.1.1	Implement the Biodiversity Conservation Strategy

Recent Resolutions

- From 19 November 2020 Council (Planning) Meeting, ([Res 20-617](#))

Legal/Statutory/Policy Considerations

Commonwealth Environment Protection and Biodiversity Conservation Act 1999

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

Biodiversity Conservation Act 2016

Biodiversity Conservation Regulations 2017

Coastal Management Act 2016

Fisheries Management Act 1994

Local Land Services Act 2013

5 Local Land Services Regulation 2014

National Parks and Wildlife Act 1974

Protection of the Environment Administration Act 1991

State Environmental Planning Policy Koala Habitat Protection 2019

State Environmental Planning Policy (Coastal Management) 2018

10 State Environmental Planning Policy (Vegetation in non-rural areas) 2017

Financial Considerations

Project is funded in the 2020/21 budget.

Consultation and Engagement

- 15
- Peer review by internal and strategic planners, open space team leaders, Infrastructure Services managers and staff.
 - Internal review by compliance team.
 - Peer review by local arborist.
 - Public exhibition for 28 days receiving no submissions.

**Report No. 13.2 PLANNING - 26.2019.1.1 - Planning Proposal
for an amendment to Byron LEP 2014 to
permit Community Title subdivision and
dwellings at Lot 38 DP 1059938, Alidenes
Road, Wilsons Creek**

Directorate: Sustainable Environment and Economy

Report Author: Alex Caras, Land Use Planning Coordinator

File No: I2021/249

Summary:

10 Council at its 17 September 2020 meeting considered a [report](#) to amend Byron LEP 2014
to permit Community Title Subdivision and dwellings at Lot 38 DP 1059938 Alidenes Road
(12.27 ha), Wilsons Creek. At that meeting Council resolved to proceed with a revised
planning proposal as per the staff recommendation. The planning proposal was
15 subsequently forwarded to the NSW Department of Planning, Industry and Environment
for a Gateway determination.

Discussions held with the Department during Gateway assessment suggest that the site-
specific outcomes required in this planning proposal may not be achievable under the
current pathway proposed (namely via a 'Schedule 1 Additional Permitted Uses' listing in
LEP 2014). This is because an additional permitted use approach is unable to control,
20 impose or restrict the land uses already permitted in the zone (such as in this case limiting
each lot to only one dwelling when dual occupancies and secondary dwellings are both
permitted with consent in the RU2 Zone).

A more effective pathway is to utilise Clause 4.1B of Byron LEP 2014 and identify the land
on the associated 'Multiple Occupancy and Community Title' map with a maximum number
25 of 15 neighbourhood lots. The clause would achieve the intent of the proposal including
the limitation of permitting no more than one dwelling per neighbourhood lot and the
creation of an association property.

Although the intended outcomes of this planning proposal remain unchanged, the
Department is of the view that the alternative pathway constitutes more than a 'minor
30 change' to what was envisaged in Council's adopted planning proposal and hence cannot
be simply 'conditioned' as part of its Gateway determination. Instead it recommends that a
revised proposal be reported back to Council in the first instance to ensure that Council is
comfortable with and supports the amended approach before submitting to the
Department.

35 The applicant and landowner were advised of the discussions with the DPIE and that a
report would be presented to the March Planning Meeting on same by email 16 February
2021. At the time of writing this report no response had been received by staff from either
about this email advice.

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Consequently this report presents a revised planning proposal for Council's consideration and recommends that it be forwarded to the NSW Department of Planning, Industry and Environment for Gateway determination.

NOTE TO COUNCILLORS:

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

10

RECOMMENDATION:

That Council:

- 15 1. **Proceed with a revised planning proposal (as contained in Attachment 1 – E2021/29384) to permit the creation of a neighbourhood Community Title scheme comprising up to 15 neighbourhood lots/dwellings, and one lot for association property that includes the Yankee Creek waterway and suitable riparian buffers on the subject land. No more than one dwelling will be permitted on each lot.**
- 20 2. **Forward the revised planning proposal to the NSW Department of Planning, Industry and Environment for a Gateway determination.**
3. **Pending a positive Gateway determination, undertake public exhibition of the planning proposal in accordance with the determination requirements.**
- 25 4. **Consider a submissions report post-exhibition that includes any recommended changes to the planning proposal for final adoption.**

Attachments:

- 1 26.2019.1.1 Planning Proposal 31 Alidenes Rd_Wilsons Creek_v4, E2021/29384 
- 2 Special Disclosure of Pecuniary Interest, E2012/2815 

30

Report

Background

Council at its 17 September 2020 meeting considered a [report](#) to amend Byron LEP 2014 to permit Community Title Subdivision and dwellings at Lot 38 DP 1059938 Alidenes Road (12.27 ha), Wilsons Creek. At that meeting Council resolved to proceed with a revised planning proposal as follows:

20-466 Resolved that Council:

1. Proceed with a planning proposal based on inserting a 'Schedule 1 Additional Permitted Uses' listing in LEP 2014 that would permit a community title subdivision of up to 15 neighbourhood lots/dwellings, with the common 'residue' lot to include the Yankee Creek waterway and suitable riparian buffers;
2. Amend wording of Council's Planning Proposal (pages 12 & 36 in Attachment 2 – E2019/85691) to clarify that "Council does not support any new lots or dwellings having access from Wilson's Creek Road due to safety issues with the access point";
3. Remove the following sentence from 'Section D' and 'Summary' section of Council's planning proposal (pages 36, 38 in Attachment 2 – E2019/85691): "Limiting the dwelling yield to 15 dwellings addresses this concern".
4. Amend and forward the planning proposal to the NSW Department of Planning, Industry and Environment for a Gateway determination.
5. Pending a positive Gateway determination undertake public exhibition of the planning proposal in accordance with the determination requirements.
6. Consider a submissions report post-exhibition that includes any recommended changes to the planning proposal for final adoption. In accordance with Section 56 of the Environmental Planning and Assessment Act 1979, Council submits the enclosed planning proposal for a Gateway determination. Council requests that the Department of Planning and Environment retain delegated Authority to make the LEP amendment.

The planning proposal was subsequently forwarded to the NSW Department of Planning, Industry and Environment for a Gateway determination.

Initial Gateway Assessment

Discussions held with the Department during Gateway assessment suggest that the site-specific outcomes required in this planning proposal may not be achievable under the current pathway proposed — namely via a 'Schedule 1 Additional Permitted Uses' listing in LEP 2014. This is because an additional permitted use approach is unable to control, impose or restrict the land uses already permitted in the zone (such as in this case limiting

each lot to only one dwelling when dual occupancies and secondary dwellings are both currently permitted with consent in the RU2 Zone).

Therefore a more effective pathway would be to utilise [Clause 4.1B](#) of Byron LEP 2014 and identify the land on the associated 'Multiple Occupancy and Community Title' map with a maximum number of 15 neighbourhood lots. The clause would better achieve the intent of the proposal including the limitation of permitting no more than one dwelling per neighbourhood lot and the creation of an association property.

Additionally [Clause 4.1B](#) (3)(b) should be broadened to include *environmental protection works* to reflect the intended use of the association lot containing the Yankee Creek waterway and suitable riparian buffers, defined as follows ([BLEP 2014](#)):

environmental protection works means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like, but does not include coastal protection works.

Although the intended outcomes of this planning proposal remain unchanged, the Department is of the view that the alternative pathway (above) constitutes more than a 'minor change' to what was envisaged in the planning proposal considered by Council in September 2020 and hence cannot be simply 'conditioned' as part of its Gateway determination. Instead the Department recommends that a revised proposal be reported back to Council in the first instance to ensure that Council is comfortable with and supports the amended approach before submitting to the Department.

Accordingly this report presents a revised planning proposal for Council's consideration and recommends that it be forwarded to the NSW Department of Planning, Industry and Environment for Gateway determination.

The revised planning proposal showing the changes proposed is contained in Attachment 1.

Revised Planning Proposal

As mentioned above, the following site-specific outcomes of this planning proposal remain unchanged:

- amending BLEP14 to permit a Community Title development comprising up to 15 neighbourhood lots/dwellings, and one lot for association property that includes the Yankee Creek waterway and suitable riparian buffers; and
- allowing no more than one dwelling to be erected on each neighbourhood lot.

Only the pathway for delivering these outcomes has been altered as follows:

- utilising [Clause 4.1B](#) of Byron LEP 2014 and identifying the land on the associated '[Multiple Occupancy and Community Title](#)' map with a maximum number of 15 neighbourhood lots';

- broadening [Clause 4.1B](#) (3)(b) to include *environmental protection works* to reflect the intended use of the 'association lot' containing the Yankee Creek waterway and suitable riparian buffers.

5 The intent of the above changes is to provide greater clarity and certainty toward achieving the required outcomes of this planning proposal.

It is recommended that Council forward the revised planning proposal (Attachment '1') to the NSW Department of Planning, Industry and Environment for Gateway determination.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	OP Activity
Objective 4: We manage growth and change responsibly	4.1 Support the visions and aspirations of local communities through place-based planning and management	4.1.3 Manage development through a transparent and efficient assessment process	4.1.3.10 Prepare and assess Planning Proposals and Development Control Plans, and amend Local Environmental Plan maps

10 **Recent Resolutions**

- From 17 September 2020 Council (Planning) Meeting, ([Res 20-466](#))

Legal/Statutory/Policy Considerations

S. 9.1 Directions and SEPPs

15 The planning proposal is justifiably inconsistent with some Section 9.1 directions because it:

- has not yet been referred to RFS for bushfire consideration
- introduces site specific provisions
- restricts the potential development of resources on the site

20 These justifiable inconsistencies are all discussed in more detail in the planning proposal in Attachment 1.

The planning proposal is consistent with the relevant State Environmental Planning Policies including SEPP 55 (Remediation of Land). These are also discussed in more detail in the planning proposal (Attachment 1).

Financial Implications

- 5 If Council chooses to proceed with the planning proposal, it will be at the proponent's expense as a landowner initiated planning proposal. Full cost recovery of the remaining stages will be required by Council. If the applicant chooses not to pay then the planning proposal will not proceed.

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

Report No. 13.3 Byron Shire Key Workers Issues Paper

Directorate: Sustainable Environment and Economy

Report Author: Shannon Burt, Director Sustainable Environment and Economy
Natalie Hancock, Senior Planner

5 **File No:** I2021/270

Summary:

The purpose of this report is to highlight the current issues impacting key workers in Byron Shire accessing available, suitable and affordable housing locally.

A recent report from [ABC news](#) put a spot light on the above, with highlights noted below:

- 10
1. The impact of migration of city residents to regional areas to try a sea & tree change due to COVID.
 2. The increase in regional NSW property prices over the last year.

January median regional property prices:

1. Burradoo: \$1,725,965
2. Byron Bay: \$1,552,367
3. Coledale: \$1,516,001
4. Suffolk Park: \$1,495,220
5. Austinmer: \$1,438,399
6. Casuarina: \$1,325,886
7. Kangaroo Valley: \$1,304,366
8. Exeter: \$1,276,494
9. Bangalow: \$1,241,275
10. Thirroul: \$1,240,396

Source: CoreLogic

- 15
3. The rental squeeze on low and medium income earners, part time and other seasonal workers, the result of landowners opting for potentially higher returns from holiday-letting over permanent letting particularly in Byron Shire.

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Anecdotally, there are reports of business owners buying houses for staff to live in, or moving to temporary accommodation, providing their homes for staff. Byron Shire and Lennox Head and Ballina businesses are known to be doing this to avoid facing part or full closure. There are also people living between their cars and self storage units.

- 5 The bottom line is that, although Council is poised to deliver shovel ready solutions, it is unable to do so easily and/or readily due to the state planning framework and the constraints in which local government operates in terms of finance and co- investment options for housing development and its associated infrastructure.

- 10 There is an urgent need for a policy circuit breaker to enable the supply of low to high-end rental and ownership accommodation opportunities outside the current 'inflated free market' for displaced local community and key workers in regional areas like Byron Shire.

15 **RECOMMENDATION:**

1. **That Council receives and notes the staff report on 'Byron Shire Key Workers Issues Paper'.**

2. **That Council requests staff to:**

- 20 a) **Invite the Hon. Melinda Pavey, MP Minister for Water, Property and Housing, and the Hon. Rob Stokes, MP Minister for Planning and Public Spaces to Byron Shire to:**
- **discuss key worker housing stress;**
 - **visit key council project sites; and**
 - **discuss the potential for state government grant funding to support infrastructure delivery needed to facilitate local affordable and diverse housing initiatives already commenced in Byron Shire.**
- 25
- b) **Seek interest from other northern rivers councils about undertaking a case study of local employer/s facing attraction/retention challenges due to housing unaffordability. This study to support point d.**
- 30 c) **Seek cross council collaboration from other northern rivers councils to identify innovative solutions to regional housing affordability challenges that go beyond the current LGA boundaries. These solutions to support point d and form the basis of pilot projects for the region.**
- 35 d) **Advocate for Federal and State Government to change the policy and regulatory setting to facilitate investment through to councils undertaking development. This could include councils directly facilitating development through planning, providing land, and financial levers such as subsidies and private public partnerships, thereby providing the private sector with the certainty that it needs to invest confidently in the region.**

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3. That Council receive an update report on 2 a-d at the ordinary June Council meeting.

Report

Issues and barriers to key workers being able to access available, suitable and affordable housing in Byron Shire include:

- Cost of housing (purchase and rental);
 - 5 • Seasonality (timing and need for housing for seasonal workers which conflicts / coincides with the peak holiday visitors times); and
 - Limited permanent, long term rental housing and permanent social housing options.
 - The 'holiday let housing deficit factor' (in Byron Shire @20% of the permanent housing stock in Byron Shire is holiday let with average rates \$250/night)
- 10 Byron Shire Council has been proactive in its attempts to address these challenges by progressing many housing affordability initiatives over the last decade including:
- 2011 - 2018: Waived secondary dwelling infrastructure fees to boost supply of local housing.
- 15 2017: Informed by a Byron Shire Business Survey, the draft Residential Strategy led discussion on a bold plan for new and more appropriate housing opportunities to meet the future needs of our growing community. Aimed at maintaining affordability intrinsic to the Shire's economic and social vitality.
- 20 Feb 2017: Council hosted a Housing Summit with government, housing providers, private industry and community stakeholders to better understand availability of affordable housing in the Byron Shire.
- 25 2017 ongoing: Council called for Expressions of Interest from landowners to submit affordable housing proposals on land in the Byron Shire. Anticipated delivery is potentially 20% of the lots secured with affordable housing projects now in progress in Bangalow and Mullumbimby. This housing affordability initiative has scope to deliver some 140 affordable rental homes for low to moderate income households within 15 years.
- 2018: Council held a Housing Roundtable. Council discussed support needed to deliver affordable housing and action needed on legal and governance structures, communication/education, development opportunities and planning/policy reforms. An action which resulted in the establishment a Community Land Trust.
- 30 2019 -20: Housing Challenge hosted three of Australia's affordable and social housing experts in a forum on local communities with local solutions. Followed by Council research on national and international affordable housing models that may be adaptable to the community's housing needs. Application of these models to specific sites within the Shire and economic feasibility is also documented.
- 35 2019: Council sought and gained NSW government support to extend its Affordable Housing Contribution Scheme (State Environmental Planning Policy 70) to the whole of

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the state. Council is currently developing a local scheme as viability assessment is complete.

2020: Council adopted an Affordable Housing Contributions Policy to ensure efficient, fair, transparent and accountable processes and facilitate landowners entering voluntary planning agreements (under the affordable housing project) or providing contributions (under the NSW Affordable Housing Contributions Scheme). It provides a framework to secure land and or monetary contributions to deliver affordable housing on greenfield land identified in the Residential Strategy.

2020 -21: A number of planning regulation changes in support of delivery of affordable housing outcomes progressed:

- planning control changes for council lands and private lands for the development of diverse housing with different entry price points (Lot 22, Mullumbimby Hospital and other private land in Mullumbimby and Bangalow)
- tiny house pilot project - to provide for tiny house development on council land (challenging as new definition and controls needed, and appropriate locations due to land constraints and neighbouring property amenity concerns).
- worked with housing providers to facilitate development in the local area (NCCH Station Street and current EOI for development above carparks)
- planning controls in development to limit the duration of time that dwellings can be holiday let, particularly in the unregulated market (e.g. Airbnb) (challenging as there is no understanding of the deleterious impacts this is having on community, key workers housing in regional coastal areas like Byron)
- Link to Council project page:

<https://www.byron.nsw.gov.au/Community/Community-Support/Housing-Affordability-Initiatives>

Why is it such an issue for key workers, business and the economy?

Responses to the Byron Shire Business Survey, (over 1,000 responses) conducted in November 2017, identified access to affordable housing as a risk to business, seeing the high property prices and rental rates as prohibitive for many staff, meaning workers are driving in from outlying areas. There is a perception that locals are being pushed out. The main concern seems to be high rents for local employees and house prices that make home ownership beyond the reach of those on typical Byron Shire incomes. Other observations connected to access to housing included:

- increased commuter congestion
- increased levels of staff turnover
- concern that the population is aging and that young people are leaving to seek more affordable homes and lifestyles elsewhere.

Our businesses inject economic benefits into the area by employing residents and providing broader economic spin-offs to the region and Australia. If this is to be maintained, we need to plan for localised affordable key worker housing.

- 5 Without action, we will see increased business costs negatively influence the viability of both incumbent businesses and new entrants to the market. It is essential to keep pace by meeting the needs of a growing and diversifying population and a buoyant economy.

Industry growth

Comparatively, Byron Shire's economy grew at a marginally faster rate (1.7%) than the rest of Regional NSW and Northern Rivers Region (1.3% and 1.6% respectively).

- 10 In 2016, Byron Shire's Gross Regional Product (GRP) was \$1.56 billion, representing a 28% increase from that generated in 2001 (\$1.22 billion). This proportional growth was greater than the 22% increase in GRP recorded for Regional NSW and 27% increase across the Northern River Region over the period.

- 15 In the year ending June 2019, Byron Shire's Gross Regional Product was \$1.84 billion, growing 1.2% since the previous year.

Industry growth sectors

In 2015/16, the four largest industries, by Industry value added in Byron Shire were:

- Accommodation and food services (\$129 million)
- Health care and social assistance (\$125 million)
- 20 • Construction (\$114 million)
- Retail trade (\$111 million).

Combined, these four industries accounted for \$388 million in total or 38.6% of the total Value Added by Industry in our Shire for this period. In the year ending June 2019, Construction was most productive industry in the Shire, generating \$149 million.

- 25 In Byron Shire, Accommodation and Food Services had the largest total exports by industry, generating \$203 million in 2018/19.

Employment growth

- 30 Our Shire had 14,092 jobs as at 2015/16, representing a 23% increase in employment generation from that recorded in 2000/01 (11,442 jobs). Over this period, almost all industry categories experienced increased employment.

The job figure has continued to rise, with 15,694 jobs as of 2017/18. The jobs-to-resident ratio for our Shire in 2017/18 was 1.00, meaning that there were more jobs than resident workers. The construction industry had the highest ratio (1.41), while the lowest ratio was found in mining (0.20).

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Table 1 shows job growth in the top four employing industries, providing a combined 8630 jobs in 2017/18.

Table 1: Jobs in top four employing industries in Byron Shire

Type of industry	Number of jobs 2017/18	Percentage of all jobs 2017/18	Increase in number of jobs since 2012/13
Accommodation and food services	2,888	14.6%	+ 249
Healthcare and social assistance	2,046	13.0%	+ 605
Retail trade	1,814	11.6%	- 66
Education and training	1,613	10.3%	+ 422

5 In 2016, workforce participation in the Shire was highest for those aged 40 to 49, with 50 to 59 year olds also having a high participation rate.

In 2016, women made up 63.5% (3,918) of the workers in the top four employing industries in Byron Shire.

Who are our key workers?

10 With 'COVID', the definition of a key worker has merged with consideration as to what are 'essential workers'. In either case, they are recognised by primary markers of:

- job is considered essential to the functioning of society; and
- usually on a low to medium income.

15 For Byron Shire, a key worker is a person employed in essential industries like health care, education, emergency services and law enforcement, as well as having regard to the Byron Shire four largest industries workforce profile. The Byron Shire Residential Strategy identifies additional key workers for the Byron Shire local economy:

- Food Trades Workers
- Automobile, Bus Drivers,
- Personal Carers and Assistants,
- 20 • Child Carers,
- Health and Welfare Support Workers,
- Automotive Electricians/Mechanics,

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- Hairdressers,
 - Checkout Operators Office Cashiers,
 - Food Preparation and Assistants.
 - Cleaners
- 5 • Property maintenance (such as handymen, plumbers, carpenters, electricians, garden maintenance)

10 In addition, Byron Shire identifies the arts as playing an important role in contributing to the development of a sustainable vibrant Shire. In line with this, people employed in the creative arts sector, such as; artists, actors, writers and musicians, have been identified as an important component in any key worker target. Artists are often very reliant on grants or very low incomes.

Equating these workers to the ABS industry sectors, on which data is collated, this encompasses:

- Retail Trade
- 15 • Motor Vehicle and Motor Vehicle Parts Retailing
- Fuel Retailing
 - Food Retailing
 - Other Store-Based Retailing
 - Non-Store Retailing and Retail Commission Based Buying

20 Accommodation and Food Services

- Accommodation
- Food and Beverage Services

Education and Training

- Preschool and School Education
- 25 • Tertiary Education
- Adult, Community and Other Education

Health Care and Social Assistance

- Hospitals

- Medical and Other Health Care Services
- Residential Care Services
- Social Assistance Services

Workforce containment and access to affordable housing

- 5 The Shire saw a decline in workforce self-sufficiency (the proportion of local workers who also live in the Shire) by 3.7% to 73.9% between 2011 and 2016. The main sectors experiencing a decline in resident local workers were retail trade, accommodation and food services, health care and social assistance, even though the local workers employed in these industry sectors had risen in same period.
- 10 Local workers are made up of all the people who are employed in the local area i.e. Byron Shire, regardless of where they live.

Table 2: Industry sector self-sufficiency

Byron Shire	2016			2011			Change
Industry	Total local workers	Local workers residing in Byron Shire	% industry self-sufficiency	Total local workers	Local workers residing in Byron Shire	% industry self-sufficiency	2011 - 2016
Accommodation and Food Services	1894	1439	75.9	1709	1427	83.5	-0.078
Retail Trade	1544	1161	75.1	1610	1278	79.4	-0.043
Health Care and Social Assistance	1594	1059	66.4	1163	893	76.8	-0.104
Education and Training	1130	799	70.7	934	703	75.3	-0.046

Source: Australian Bureau of Statistics, Census of Population and Housing 2011 and 2016.

- 15 The housing market analysis in the following sections shows that there are limited opportunities for the market to meet the demand for affordable housing in Byron Shire and significant underlying demand for affordable housing.

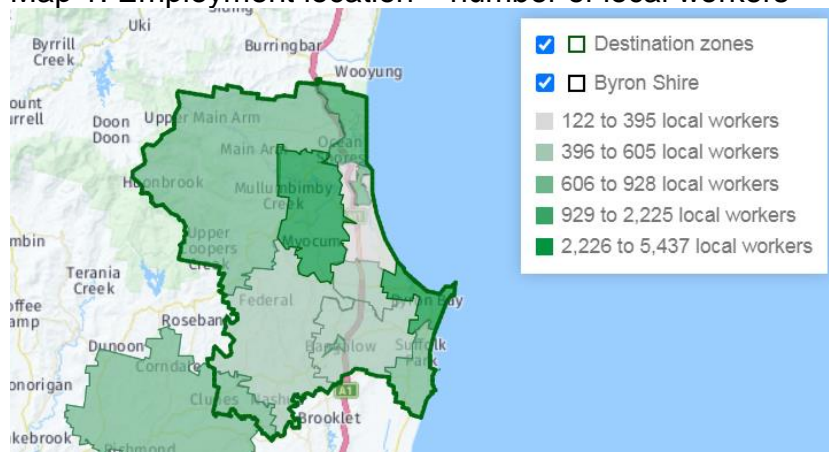
- As shown on Map 1, the major employment centre in Byron Shire is centred on Byron Bay township, with a secondary employment centre in Mullumbimby. The majority of outside the Shire local workers travelled from Tweed and Ballina Shires. The areas of Sunrise and the Byron Bay as a work destination zone, had the greatest number (39.7%, 5,437 workers) of local workers within our Shire.
- 20

There is limited morning peak hour public transport access to these centres for workers, with the 640 bus service from southern coastal areas reaching Byron Bay at 07.55 and

08.40 and reaching Mullumbimby at 08.25 and the 645 bus service from northern coastal areas reaching Byron Bay at 08.45 and Mullumbimby at 08.20.

- 5 Increased commuter workers also contribute to Pacific Motorway inefficiency. The Ewingsdale interchange is one such example. At peak times it is beyond capacity affecting the flow of Byron central hospital, local business, tourist visitation and importantly highway through traffic. In 2020, Council sought to address this issue with an application to Infrastructure Australia to get MR545 on the priority list for Australian Government funding.

Map 1: Employment location – number of local workers



10 Background on individual incomes - key workers

In the next 10 years it is predicted that:

- Australia wide, 7 out of the 10 largest employment growth area will be in lower paying industries such as health care and social assistance and education and training. The Business and Industrial Lands Strategy analysis indicates Byron Shire is likely to follow this trend.
- Households with low to middle income (working in jobs as cleaning, caring, teaching or nursing) will increasingly rely on affordable rental housing.
- Australia wide home ownership will continue to decline. For Byron Shire it dropped from 59.1 % (2006) to 56.7% (2016); benchmarked with Australia at 67% – essentially this means in Australia we cannot continue to rely on people being able to buy their home, as the core housing response. <https://www.aihw.gov.au/reports/australias-welfare/home-ownership-and-housing-tenure>

Workers who live in Byron Shire, as well as those who work in Byron Shire, have lower levels of total personal income compared to the rest of NSW.

- 25 Table 4 shows the proportional representation of lower income and higher income workers within the top four employment industry sectors. Lower paying and seasonal jobs associated with the parts of these industry sectors contributes to lower incomes.

Table 3: 2016 Individual income profile by industry sector all workers, females and males

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Industry sector	All Local workers				No. Women as % of all workers	Females (% of all workers in industry sector)		Males (% of all workers in industry sector)	
	NSW earned < \$650 per week	Number of workers 2016	% earned < \$650 per week	% earned >\$1,750 per week		% earned < \$650 per week	% earned >\$1,750 per week	% earned < \$650 per week	% earned >\$1,750 per week
Accommodation and food services	58%	1894	51.8 %	4.3%	990 52%	59%	2.8%	43.9 %	5.7%
Healthcare and social assistance	24.5 %	1544	35.3 %	12.6%	1096 71%	39.4%	7.8%	21.7 %	27.3%
Retail trade	46.5 %	1594	51.7 %	3.7%	956 60%	56.4%	2.2%	43%	6.5%
Education and training	22.6 %	1130	28.9 %	15%	876 69.5%	31.6%	12.3%	18.7 %	24%
Total	-	6162	-	-	3918 63.5%	1631 workers 41.6%	-	-	-

Table 3 also highlights a disparity in female and male worker incomes. Of female workers in the top four employing industries, 41.6 % earned less than \$650 per week. By comparison, 36.3% of all male workers in these industries earned less than \$650 per week.

- 5 The major differences between the age structure of the female workforce in Byron Shire and New South Wales were:
 - A *larger* percentage of female local workers aged 45 to 54 years (25.4% compared to 21.8%)
 - A *larger* percentage of female local workers aged 55 to 64 years (19.0% compared to 14.8%)

In 2016, women over a 50 made up 22 % of our Shire population with this predicted to grow to 28.5% by 2036.

Wage growth - 2016 to 2020

- 15 Private sector wage growth (such as in accommodation and food services and retail trade industry sectors) was just 0.1% in the three months to the end of September and 1.2% for

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the year, while public sector wage growth rose 0.2% and 1.8% respectively for these periods. Head of Price Statistics at the ABS, Andrew Tomadini said: "After a steady period of wage growth over the previous 12 months, wages recorded the lowest annual growth in the 22-year history of the WPI.

- 5 Going forward - Treasury has forecast wage growth will remain at just 1.25% through to June 2021 before rising to 1.5 % for 2020-21. However, Capital Economics says it expects annual wage growth will continue to drop to below 1% by next year. (ABS & Financial review)

Household incomes

- 10 The Table 5 below shows the distribution of household incomes for Byron Shire compared to the rest of NSW. Byron Shire has slightly higher proportions of very low income households and moderate income households, and lower proportions of higher income households.

Table 4: Household incomes

	Byron Shire	Rest of NSW
Very low income households (less than \$583 per week)	22.1%	21.0%
Low income households (\$583- \$933 per week)	18.3	18.8%
Moderate income households (\$933- \$1,399 per week)	18.8	17.8%

- 15 (Source: ABS Census 2016, Judith Stubbs & Associates - JSA calculations and analysis)

Table Notes:

(1) Excludes Negative and Nil Income

(2) Results obtained from linear interpolation within Census income bands

20 Housing costs

Housing cost is typically considered using household income.

- 25 Housing is 'affordable' when very low, low and moderate income households are able to meet their housing costs and still have sufficient income to pay for other basic needs such as food, clothing, transport, medical care and education. This is generally accepted to be where such households pay less than 30% of their gross household income on housing costs.

Households paying more than 30% of total household income in mortgage or rental payments are considered to be in rental or mortgage stress.

- 30 Table 5 shows rental costs have been growing at a significantly higher rate than household incomes and renter household housing stress is a long standing issue.

In 2016, 25.8% of households in Byron Shire had a weekly household income of less than \$650/week whilst the medium weekly rent was \$400/week.

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Table 5: Change in the rental costs to household income Byron Shire

Year	Average week rent in Byron Shire	Medium weekly household income
2006	\$250/week = rent at 33% on income	\$738
2016	\$400.00 rent at 34% of income 40.3% of renting households were paying \$450 or more per week in rent	\$1143.00/week [compared to \$1,166 for Rest of NSW and \$1,482 for NSW]

Table 6 further breaks down renter housing stress information in Byron Shire compared to the rest of NSW. Byron Shire has very high levels of housing stress in comparison, and, contrary to the rest of NSW, a large majority of moderate income households are in housing stress. Amongst very low income households, 60% are spending more than 50% of gross household income on rental, compared to 43% for the rest of NSW.

The table shows rental stock and very low, low and moderate income renters in Byron LGA at the 2016 Census. Byron Shire had similar proportions of very low, low and moderate income households compared to Rest of NSW but had much lower levels of affordable rental stock, with rates around half of those for Rest of NSW. In Byron Shire, 53.1% of rental stock was affordable to very low, low and moderate income households compared to 95.4% of stock in Rest of NSW.

Table 6: Rental Stock in Byron Shire at 2016 Census

	Byron LGA			Rest of NSW		
	Proportion of Renting Households	Proportion of rental stock affordable (excluding social housing)	Social housing as a proportion of rental stock	Proportion of Renting Households	Proportion of rental stock affordable (excluding social housing)	Social housing as a proportion of rental stock
Very low income households	26.4	6.8	6.3	26.9	40.6	16.4
Low income households	21.6	12.4	-	22.5	25.2	-
Moderate income households	20.1	27.6	-	19.6	13.2	-
Total	68.1%	46.8%	6.3	69	79	16.4

Source: ABS and JSA calculations

- Proportions of rental stock are not cumulative, that is housing that is affordable to very low income households is also affordable to low income households but is not included in the total for low income households.

2. Households with negative/nil income excluded.

Rental Vacancies

5 A survey was conducted by Judith Stubbs & Associates (JSA) of real estate agents in Byron Shire in the week of 6 January 2020. Thirteen provided information on the size of their rent roll and the current level of vacancies. The total rent roll across these agencies was estimated at 1,319 with 60 vacancies, giving a vacancy rate of 4.5%. The vacancies appeared to be mostly for larger properties, with few if any, affordable to moderate income households. While this vacancy rate may be expected to lead to downward pressure on rents, this does not seem to be the case in Byron, as shown by the rental supply analysis below.

Affordable Housing Benchmarks

Drawing on analysis by JSA on rental data for the June quarter 2019 for Byron Shire compared to Rest of NSW showed rents in Byron Shire are more than double those for Rest of NSW. Furthermore:

- 15 • of the dwellings for rent in Byron Shire, no product was affordable to very low or low income households
- the only product affordable to moderate income households was a one bedroom dwelling, with these comprising 12% of dwellings.
- 20 • A first quartile one bedroom dwelling was affordable to most moderate income households,
- a median one bedroom dwelling was affordable to 60% of moderate income households and
- a third quartile one bedroom dwelling was affordable to 5% of moderate income households.

25 As further analysis by Judith Stubbs & Associates of a rental snapshot was conducted for Byron Shire for 3 January 2020 using domain.com.au. Results showed of the 92 properties identified for rent, a single one bedroom dwelling in Brunswick Heads was affordable to a very low income household (1% of dwellings), two one bedroom dwellings in Brunswick Heads were affordable to a very low income household (2% of dwellings) and 12 dwellings were affordable to moderate income households (12% of dwellings). Brunswick Heads was the only suburb where a median rental dwelling was affordable to a moderate income household.

Table 7: Median weekly rent by locality

Locality	Median rent/week \$	Number of properties
Bangalow	725	8
Brunswick Heads	370	8
Byron Bay	700	19

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Clunes	550	3
Ewingsdale	1250	7
Mullumbimby	1200	3
Newrybar	1200	3
Ocean Shores	595	15
South Golden beach	688	4
Suffolk Park	950	13

Source: domain.com.au, 3 January 2020, Judith Stubbs & Ass. (JSA) calculation

More recent data weekly rents statistics provided NSW Government for Local Government Area – Byron Shire for the December quarter 2020 shows a continued trend in increase in median weekly rents.

5 Table 8: Rents December 2020 quarter and annual change

Dwelling Types	Number of Bedrooms	Quartile Weekly Rent for New Bonds \$	Median Weekly Rent for New Bonds \$	Quarterly change in Median Weekly Rent	Annual change in Median Weekly Rent
Total	Total	523	670	6.35%	17.54%
Total	1 Bedroom	389	473	6.18%	23.53%
Total	2 Bedrooms	480	550	10.00%	11.11%
Total	3 Bedrooms	650	740	8.82%	13.85%
Total	4 or more Bedrooms	863	1000	11.42%	21.95%
House	Total	600	750	7.14%	16.28%
House	1 Bedroom	424	473	5.00%	21.15%
House	2 Bedrooms	520	550	0.00%	6.28%
House	3 Bedrooms	650	750	10.29%	15.38%
House	4 or more Bedrooms	850	1000	11.73%	21.95%
Other	Total	319	545	10.66%	32.52%
Townhouse	Total	600	730	5.80%	12.31%
Townhouse	3 Bedrooms	700	775	10.71%	15.67%
Flat/Unit	Total	450	500	5.26%	11.11%
Flat/Unit	1 Bedroom	400	475	5.56%	23.38%

Dwelling Types	Number of Bedrooms	Quartile Weekly Rent for New Bonds \$	Median Weekly Rent for New Bonds \$	Quarterly change in Median Weekly Rent	Annual change in Median Weekly Rent
Flat/Unit	2 Bedrooms	450	500	6.38%	4.17%

Source: Local Government Area – Byron Shire NSW Government Communities & Justice bond lodgement data.

5 Renters are spending a higher percentage of their earnings on rent with up to 48% of weekly household income required to pay the median rent across all housing categories in the Shire. To avoid housing stress a median annual household is of \$102,300 is required but the median annual household income was closer to \$63,000 in 2016 and even based on an optimistic 2% wage growth the current estimate is around \$68,500.

Holiday letting

10 At the 2016 census, 13.2% of dwellings in Byron Shire were unoccupied and 4.6% were visitor only households; compared to 12.4% and 1.7% respectively for Rest of NSW. There may also be seasonal fluctuations due to tourism impact, with tenants displaced during the peak holiday period in favour of tourism lettings.

Purchaser households

15 Whilst not the focus of this report, Byron Shire has high levels of purchase housing stress by comparison with Rest of NSW, and, similar to renters, there are higher levels of housing stress among low and moderate income households.

Conclusion

The cumulative impact of:

- four largest employment growth industries being in the main lower paying industries
- 20 • relatively low wage growth
- high growth in rent costs and land purchase price
- high levels of private rental and low levels of social rental
- undersupply of apartment and other smaller self- contained accommodation
- strong market competition for holiday letting further reducing available housing stock
- 25 • women making up 63.5% (3918) of the workers in the top four employing industries in Byron Shire with 41.6 % earning less than \$650 per week (census 2016). has resulted in acute housing stress (both rental and mortgage).

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Byron Shire's key worker cohort is part of a larger community experiencing the highest stress levels in the Northern Rivers and is higher than New South Wales. The impact extends beyond very low to low households to include medium income households.

- 5 Further indicators are single women key workers, particularly those in the over 45 age bracket are most likely to be adversely affected by housing access unless appropriate affordable housing is delivered.

- 10 The Human Rights Commission notes that housing solutions need to be appropriate and responsive to the individual's current and future needs, suggesting that new short-term housing initiatives, for example pop-up housing, may stabilise the housing situation. For some women this could provide support and capacity to continue working and aging in place amongst a supportive community.

(Sources: [Human Rights commission - Older Women's Risk of Homelessness](#))

Next steps

- 15 Invite the Hon. Melinda Pavey, MP Minister for Water, Property and Housing, and the Hon. Rob Stokes, MP Minister for Planning and Public Spaces to Byron Shire to:

- discuss key workers housing stress;
 - visit key Byron Shire Council project sites; and
 - discuss the potential for state government grant funding to support infrastructure delivery needed to facilitate local affordable and diverse housing initiatives already commenced.
- 20

Seek interest from other northern rivers councils about a undertaking a case study of local employer/s facing attraction/retention challenges due to housing unaffordability.

- 25 Seek cross council collaboration from other northern rivers councils to identify innovative solutions to regional housing affordability challenges that go beyond the current LGA boundaries.

- 30 Advocate for Federal and State Government to change the policy and regulatory setting to facilitate investment through to councils undertaking development. This could include councils directly facilitating development through planning, providing land, and financial levers such as subsidies and private /public partnerships, thereby providing the private sector with the certainty that it needs to invest confidently in the region.

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Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 4: We manage growth and change responsibly	4.2	Support housing diversity in appropriate locations across the Shire	4.2.1	Establish planning mechanisms to support housing that meets the needs of our community	4.2.1.1	Prepare an Affordable Housing contribution scheme under SEPP 70 to be incorporated in the local planning framework controls (Action in Residential Strategy)
Community Objective 4: We manage growth and change responsibly	4.2	Support housing diversity in appropriate locations across the Shire	4.2.1	Establish planning mechanisms to support housing that meets the needs of our community	4.2.1.2	Prepare a report on deliberative development models to facilitate the delivery of accessible housing
Community Objective 4: We manage growth and change responsibly	4.2	Support housing diversity in appropriate locations across the Shire	4.2.1	Establish planning mechanisms to support housing that meets the needs of our community	4.2.1.3	Progress future use of Lot 22, Mullumbimby Planning Proposal and Plan of Management

Recent Resolutions

Res 20-016 20 Feb 2020: progress Tiny House planning proposal - ongoing

5 Res 20-021 20 Feb 2020: progress Short Term Holiday let planning proposal - ongoing

Res 20-365: 13 August 2020: adopt Affordable Housing Contribution Policy - complete

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Res19-152: 11 April 2019: progress SEPP 70 Affordable Housing Contribution planning proposal - ongoing

Res20-06: 27 Feb 2020: EOI Housing above Council car parks- commenced

Res 20-611: 19 November 2020: progress planning proposal Lot 22 – ongoing

- 5 *Res 20-686:* 10 Dec 2020: Adopted Residential Strategy – with the Department of Planning Industry and Environment for review and endorsement.

Legal/Statutory/Policy Considerations

Not applicable.

Financial Considerations

- 10 Not applicable.

Consultation and Engagement

The report is provided to Council and the community to aid understanding of the housing affordability challenges in the Byron Shire.

Report No. 13.4 Council's role in Housing Delivery

Directorate: Sustainable Environment and Economy

Report Author: Shannon Burt, Director Sustainable Environment and Economy

File No: I2021/306

5 Summary:

Since 2016, there have been many resolutions passed by the current Council that have highlighted the need to find a way to address housing availability and affordability in Byron Shire.

10 Staff are now approaching the pointy end of the work. A decision on the most appropriate "affordable" housing delivery model/s to manage the land we have and the land we will receive from others is now necessary.

15 This report recommends that investigation into three different delivery models be further progressed - Community Land Trust, Live-Work and Restricted Purchase models for application to Council owned land and developments.

RECOMMENDATION:

That Council:

- 20 1. Notes the staff report on Council's role in Housing.
2. Requests staff to further investigate the Community Land Trust, Live-Work and Restricted Purchase models to see how they can be applied to Council owned land and developments including contributions under a SEPP 70 Affordable Housing Contribution Scheme.
- 25 3. Receives a report by or before mid-year on the findings of 2 with recommendations on the appropriate next steps for application and implementation of the preferred model/s to Council land and developments.

Attachments:

- 30 1 Special Disclosure of Pecuniary Interest, E2012/2815 

Report

Since 2016, there have been many resolutions passed by the current Council that have highlighted the need to find a way to address housing availability and affordability in Byron Shire.

- 5 The Byron Shire Key Workers Issues Paper on this agenda talks to the real and present housing crisis in Byron Shire the result of an inflated property market due to COVID, and provides some recommendations to address same.

- 10 However, as discussed in that report, due to the current state planning framework and the constraints in which local government operates in terms of finance and co-investment options for housing development and its associated infrastructure, progress remains slow on delivery of any of the Council initiated projects.

There is an urgent need for a policy circuit breaker to enable the supply of low- to high-end rental and ownership accommodation opportunities outside the current 'inflated free market' for displaced local community and key workers in regional areas like Byron Shire.

15 Housing Model Options

On the back of [Notice of Motion 9.4 Affordable Housing \(Resolution 16-292\)](#), Echelon Planning and Urban Xchange were commissioned to prepare a research paper on contemporary housing models being delivered nationally and overseas to understand applicability to Byron Shire.

- 20 This paper outlines the characteristics of each model, its benefits for the housing market, and the commercial governance structures that can be put in place to deliver local affordable sustainable housing in Byron Shire.

The full report is available on Council's web page link below. This report informed the development of the Byron Shire Residential Strategy.

- 25 [Echelon Planning Report Byron Shire Alternative Housing Models.pdf](#)

Council adopted the [Byron Shire Residential Strategy at 10 December 2020 Planning meeting](#). The Strategy has been forwarded to the NSW Department of Planning Industry and Environment (DPIE) for final endorsement. Extract:

- 30 ***DIRECTION 2.1: Enable opportunities for innovative new residential forms and models that give a sense of place, promote environmental stewardship and encourage social, economic and cultural diversity and equity.***

- 35 This direction refers to new residential forms and models that can be built on private land or government owned land (such as the old Mullumbimby Hospital site). These are a possible option for people who want more affordable higher quality homes with a strong sense of community, which is currently not met by the traditional model of speculative housing development.

Where to next for Housing in Byron Shire?

Council has an adopted Residential Strategy and policy framework, has multiple housing initiatives progressing, but is yet to find a way to deliver secure affordable and sustainable housing for our community and key workers.

Other Council's in Australia and New Zealand appear to also be grappling with this problem. Recent news coverage:

[Tasmanian Housing Crisis](#)

[New Zealand Housing Crisis](#)

To this end, it is timely to undertake a further deep dive into the practicality and feasibility of some of the housing models in the Echelon Xchange Report, as they can be applied to Council owned land and developments like Lot 22 and the Old Mullumbimby Hospital site.

There are three models that come to mind as tangible and relevant. For all, Council has land and pilot projects progressing to which these models could apply.

- **Community Land Trust (CLT)**

The concept of a Community Land Trust is simple – it is a form of shared ownership of a property, where the land component of a residential property is owned by community based, not-for-profit legal entity and the actual building is owned (or leased long-term) by an individual household.

Interestingly, Council previously resolved to become a foundation member of the Byron Community Land Limited (BCLL) in 2018.

[Notice of Motion No 9.1 Byron Community Land Limited Foundation Membership](#)

The principal purpose for which the BCLL was established was “to acquire land to provide Charitable housing in perpetuity for people in need of charitable housing who live or work in the Shire”.

Notwithstanding the commitment of the Board to the principle purpose, the decision was taken by the Board to voluntarily deregister the company on 23 March 2020.

This mainly occurred around the lack of financial viability and organisational capacity of getting a pilot project off the ground given the need to acquire land for this purpose in the first instance.

- **Live – Work models**

The Live/Work Co Living model is a setup where a building's bedrooms are private, but nearly all other spaces and facilities are communal. In this arrangement, the building operates as modern “dorms for grown-ups”.

The Live/Work Co living model continues to move further away from long term commitment with the model evolving from signing a lease to being provided only with a “membership” to provide for a furnished bedroom and common areas. This model is attractive to a young, urban, professional, and mobile population.

Under the umbrella of a Live /Work model is an arrangement where your workspace is combined with your living quarters so you essentially work from home but with a dedicated section for your office. This model is attractive to kitchen-table start-ups and freelancers.

- **Restricted purchase**

Price-controlled dwellings can only be resold at a limited cost or can be made available to purchasers on defined incomes.

The idea is that Restricted Purchase housing is made available at a discount, usually because a council or state government provides land cheaply. Resale of dwellings in this situation is controlled so that the discount remains in perpetuity to future occupants.

Consistency with emerging planning regulations

In accordance with [Report No 6.8 - State Environmental Planning Policy No 70 Affordable Housing \(Revised Schemes\) \(SEPP 70\) \(Resolution 19-152\)](#)

staff have progressed with a planning proposal for a Byron Shire State Environmental Planning Policy No. 70 – Affordable Housing (Revised Schemes) (SEPP 70). As part of this work a delivery vehicle to accept and manage contributions (land and/or land and building dedications or a monetary) under the scheme needs to be established.

Furthermore, the NSW government’s is exploring housing models outside the traditional market driven response: the Explanations of Intended Effects for the SEPP Housing Diversity included built-to-rent-to-buy and co-living. The current Employment Zones review is considering the Live/work model.

To identify land tenure and management models appropriate to Byron Shire places Council in a strong position to capitalise on potential planning regulation changes.

Next steps

- Staff to further investigate the Community Land Trust, Live Work and Restricted Purchase models to see how they can be applied to Council owned land and developments.
- This work to encompass options for a delivery vehicle to accept and manage contributions under a SEPP 70 Affordable housing contribution scheme.
- That a report be presented back to Council by or before mid-year on the findings with recommendations on the appropriate next steps for application and implementation of the preferred model/s.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 4: We manage growth and change responsibly	4.2	Support housing diversity in appropriate locations across the Shire	4.2.1	Establish planning mechanisms to support housing that meets the needs of our community	4.2.1.2	Prepare a report on deliberative development models to facilitate the delivery of accessible housing

Recent Resolutions

- *Res 20-016:* 20 Feb 2020: progress Tiny House planning proposal - ongoing
- 5 • *Res 20-02:1* 20 Feb 2020: progress Short Term Holiday let planning proposal - ongoing
- *Res 20-365:* 13 August 2020: adopt Affordable Housing Contribution Policy - complete
- *Res19-152:* 11 April 2019: progress SEPP 70 Affordable Housing Contribution planning proposal - ongoing
- 10 • *Res20-06:* 27 Feb 2020: EOI Housing above Council car parks- commenced
- *Res 20-611:* 19 November 2020: progress planning proposal Lot 22 – ongoing
- *Res 20-686:* 10 Dec 2020: Adopted Residential Strategy – with the Department of Planning, Industry and Environment for review and endorsement.

Legal/Statutory/Policy Considerations

- 15 Amendments to planning controls may be necessary.

Financial Considerations

Current and proposed work funded within existing operations budget.

Consultation and Engagement

The report is provided to Council and the community to aid understanding of the housing affordability challenges in the Byron Shire.

Report No. 13.5 PLANNING - s4.55 10.2014.417.2 S4.55 to Modify Staging. Stage 1: Conversion of Existing Garage to Temporary Sales and Display Office for on-site Marketing of Approved Residential Flat Building, Temporary Car Parking Space, Pedestrian Access and Landscaping. Stage 2: Completion of all Works and Demolition of Existing Building 43 Lawson Street Byron Bay

Directorate: Sustainable Environment and Economy

Report Author: Patricia Docherty, Planner

File No: I2021/253

Proposal:

Proposed modification: S4.55 to Modify Staging. Stage 1: Conversion of Existing Garage to Temporary Sales and Display Office for on-site Marketing of Approved Residential Flat Building, Temporary Car Parking Space, Pedestrian Access and Landscaping. Stage 2: Completion of all Works and Demolition of Existing Building

Original Development: Demolition of existing residential flat building & construction of a new residential flat building and associated works

Type of modification sought:

Property description: LOT: 0 SP: 16094

43 Lawson Street BYRON BAY

Parcel No/s: 41930

BYRON SHIRE COUNCIL

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Applicant: Northpoint Advisory

Owner: The Owners of Strata Plan 16094

Zoning: R3 Medium Density Residential

S96 Date received: 17 September 2020

Original DA determination date: 10/12/15

Public notification or exhibition:

- Level 1 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications
- Exhibition period: 30/9/20 to 13/10/20
- Submissions received: one (1)

Planning Review Committee: 13/11/2020

Delegation to determination: Council

Issues: Owner's consent not provided in accordance with *Environmental Planning & Assessment Regulation 2000* clause 49. Council has no jurisdiction to approve the application. The original development consent (DA 10.2014.417.1) was approved by Council on 10 December 2015 without written consent of all owners affected. Legal advice provided by Council solicitor.

Summary:

5 An application has been received pursuant to S4.55 to Modify Staging. Stage 1: Conversion of Existing Garage to Temporary Sales and Display Office for on-site Marketing of Approved Residential Flat Building, Temporary Car Parking Space, Pedestrian Access and Landscaping. Stage 2: Completion of all Works and Demolition of Existing Building. The proposal is not satisfactory having regard to relevant matters for consideration and the section 4.55 application is recommended for refusal on the grounds listed in the Recommendation of this Report below.

BYRON SHIRE COUNCIL

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NOTE TO COUNCILLORS:

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

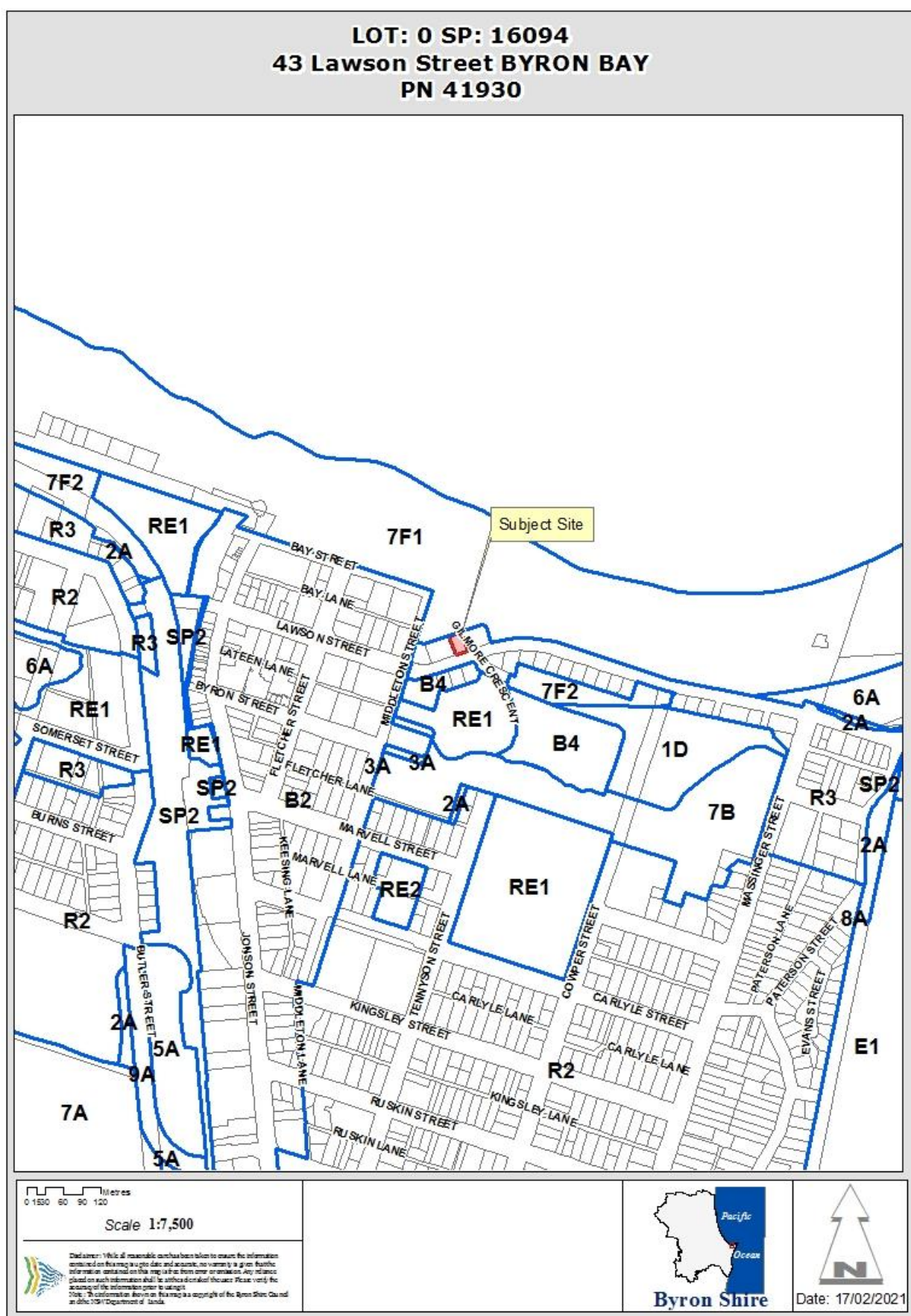
RECOMMENDATION:

- 10 **That Development Application No. 10.2014.417.2, for S4.55 to Modify Staging - Stage 1: Conversion of Existing Garage to Temporary Sales and Display Office for on-site Marketing of Approved Residential Flat Building, Temporary Car Parking Space, Pedestrian Access and Landscaping. Stage 2: Completion of all Works and Demolition of Existing Building, be refused for the following reasons:**
- 15 1. Pursuant to *Environmental Planning & Assessment Regulation 2000* clause 49, the application fails to demonstrate that the owner's corporation has consented to lodge an application to modify a consent to undertake work on common property.
- 20 2. Pursuant to *Environmental Planning & Assessment Act 1979* section 4.15 (1) (a) (iii), the application fails to demonstrate compliance with the requirements of Chapter B4 of DCP 2014 for car parking.
3. Pursuant to *Environmental Planning & Assessment Act 1979* section 4.15 (d), the application fails to demonstrate that it addresses matters raised in submissions made in accordance with the Act and regulations.
- 25 4. Pursuant to *Environmental Planning & Assessment Act 1979* section 4.15 (e), the application fails to satisfy the consent authority that it would be in the public interest to grant consent to a proposal that is not in accordance with the Act and regulations.

Attachments:

- 30 1 10.2014.417.2 - redacted objection correspondence, E2020/102725 
- 2 Confidential - 10.2014.417.2 Legal Advice 43 Lawson street question for legal - validity of owners consent, E2021/34806
- 35 3 10.2014.417.2 - site plan _PAN-31279, E2020/76153 

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Assessment:

5 An application has been received to S4.55 to Modify Staging. Stage 1: Conversion of Existing Garage to Temporary Sales and Display Office for on-site Marketing of Approved Residential Flat Building, Temporary Car Parking Space, Pedestrian Access and Landscaping. Stage 2: Completion of all Works and Demolition of Existing Building.

The proposal is not satisfactory having regard to relevant matters for consideration and the section 4.55 application is recommended for refusal on the grounds listed in the Recommendation of this Report.

Issues

10 Owner's consent not provided in accordance with *Environmental Planning & Assessment Regulation 2000* clause 49. Council has no jurisdiction to approve the application.

15 The original development consent (DA 10.2014.417.1) was approved by Council on 10 December 2015 without written consent of all owners affected. Owners consent was provided from the Body corporate for the property and it was considered at that time that this was sufficient for the DA to be determined.

Confidential legal advice has been provided by Council's solicitor and is attached for Councils information.

20 In terms of amendment being sought, the applicant is proposing to utilise one of the car parking spaces for the existing apartments as a sales office. No additional parking is proposed and the alternative parking arrangements proposed are inconsistent with the parking provisions contained within Byron DCP 2014.

Having regards to the above, and the objection from one of the owners within the development, it is recommended that the S4.55 Application be refused.

25

**Report No. 13.6 PLANNING - DA 10.2020.358.1 Primitive
Camping Ground Consisting of Eight (8)
Sites with Ancillary Ensuites.**

Directorate: Sustainable Environment and Economy

5 **Report Author:** Ben Grant, Planner

File No: I2021/179

Proposal:

DA No: 10.2020.358.1

Proposal description: Primitive Camping Ground consisting Eight (8) Sites with Ancillary En-suites and Onsite Sewage Management Disposal System

Property description: LOT: 11 DP: 1017165
194 St Helena Road MCLEODS SHOOT

Parcel No/s: 233310

Applicant: Ardill Payne & Partners

Owner: Mr R J Schwamberg

Zoning: Part RU2 Rural Landscape, Part 7(d)

Date received: 22 July 2020

Integrated / Designated Development: ☒ Integrated ☐ Designated ☐ Not applicable

Concurrence Yes

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required

Public notification or exhibition:

- Level 2 advertising under DCP 2014 Part A14 – Public Notification and Exhibition of Development Applications
- Exhibition period: 6/8/20 to 19/8/20
- Submissions received: 11 total submissions
- Submissions acknowledged: ☒ Yes ☐ No ☐ N/A

Planning Review Committee: 15/10/2020

Delegation to determine Council

Issues:

- Proposal fails to meet LEP definition of a primitive camping ground.
- Inconsistent with objectives of 7(d) (Scenic Escarpment Zone).
- Inconsistent with DCP objectives C3.1–C3.4 relating to visual impact on scenic escarpment.
- Existing safari tent located underneath powerlines.
- Relationship to alleged unauthorised wedding venue not properly explained.
- Insufficient information relating to:
 - Land contamination (SEPP 55);
 - Potable water supply;
 - Boundaries of the camping ground in relation to the site;
 - Environmental enhancement/bush regeneration.

Summary:

This application seeks approval for a primitive camping ground consisting of eight (8) sites at 194 St Helena, Road, McLeods Shoot. The proposed campground will be located on top of scenic ridgeline with northerly views towards Cape Byron.

- 5 The development concept involves the construction of a wooden platform, upon which a 'safari tent' shell will be placed, supported by a framework of interlocking wooden poles.

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Each safari tent will be fully furnished and provided with a toilet, shower and kitchenette with fixed plumbing connections, similar to a holiday cabin.

- 5 For reasons explained further in the body of this report, the development fails to meet the LEP definition of a *primitive camping ground*. The accommodation structures are neither temporary nor primitive and do not comply with the requirements of the *Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995*. Compliance with the 1995 Regulations is necessary to satisfy the definition.

The proposed development in its current form is considered to be a prohibited use in the 7(d) Scenic/Escarpment Zone). As such, the application is recommended for refusal.

- 10 A number of other issues were also identified relating to zone objectives, visual impact, proximity to powerlines and a lack of information relating to land contamination, water supply and bush regeneration. These have been included as additional reasons for refusal.

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:

- 25 **A. That pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2020.358.1 for a primitive camping ground consisting of eight sites with ancillary en-suite and onsite sewage management system, be refused for the following reasons:**
- 30
1. **The proposed development fails to meet the definition of a primitive camping ground in LEP 1988 and is considered to be a prohibited use in the 7(d) (Scenic/Escarpment Zone).**
 2. **No verifiable information was provided to demonstrate that the land is uncontaminated, as per Clause 7 of *State Environmental Planning Policy No 55—Remediation of Land*.**
 - 35 3. **The proposed development is considered to be inconsistent with the objectives of the 7(d) (Scenic/Escarpment Zone).**
 4. **The proposed development fails to satisfy the Objectives and Performance Criteria of Byron Development Control Plan 2010, Parts C3.1 Visual Impact, C3.3 Element – Development On or Near Ridgetops and**

C3.4 Element – Development in Scenic Zones. The number of safari tents (8) is considered to be excessive and is likely to detract from the scenic quality and visual amenity of the area.


- 5. The proposed development is located unacceptably close to overhead powerlines, which poses a safety risk to guests and impedes access to electricity infrastructure.**
- 6. Approval of a prohibited land use in contravention of Council's planning controls would be contrary to the public interest.**

7. Insufficient information has been provided in relation to:

- a) Byron Local Environmental Plan 1988, Clause 45 Services. The application did not include sufficient information to explain how potable water will be supplied to the proposed safari tents. The location and/or capacity of the rainwater tanks was not identified.**
- b) Byron Development Control Plan, Part C10.1 Element – Lot Size. The application has not included any information to identify or delineate the area of the primitive camping ground in relation to the area of the allotment.**
- c) Byron Development Control Plan, Part C10.2 Element – Recreation Areas. The application has not included any information to identify areas set aside for recreation, open space or landscaping in the camping ground.**
- d) Environmental enhancement and bush regeneration. A full, proper Vegetation Management Plan should be prepared in accordance with the *Byron Shire Council Guidelines for preparing Vegetation Management Plans (VMP) or Biodiversity Conservation Management Plans (BCMP)*.**

B. That Council note the alleged unauthorised use of the land as a wedding venue (Byron View Farm) and the presence of two safari tents which appear to have been constructed without consent. That these matters be referred to Council's Community Enforcement Team to further investigate and commence enforcement action as required or necessary in the circumstances of the case.

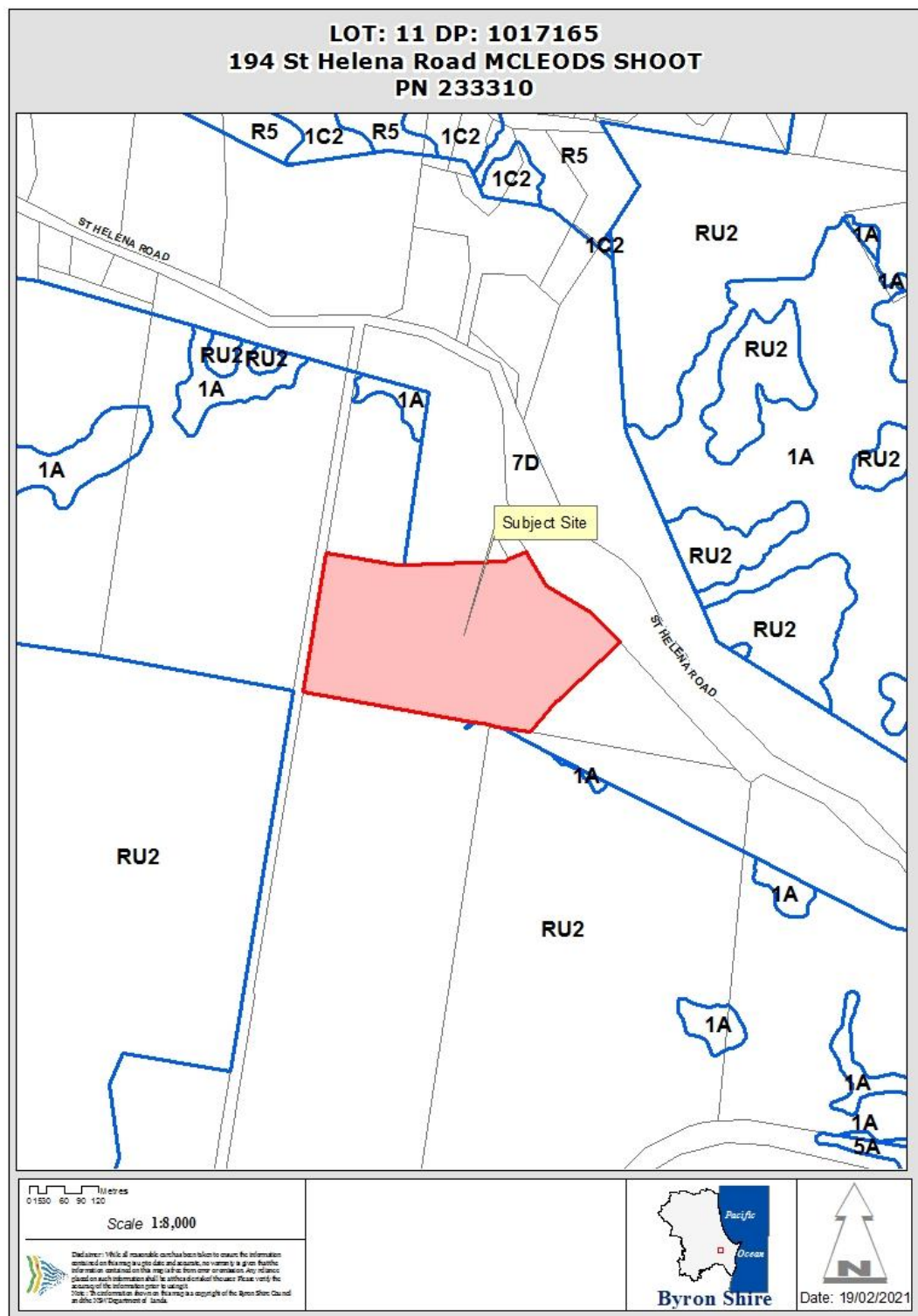
Attachments:

- 1 10.2020.358.1 -Plans and Details, E2021/37225 **
- 2 10.2020.358.1 -Submissions Redacted, E2020/74161 **

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Assessment:

1. INTRODUCTION

1.1. History/Background

5 Previous determinations

The following determinations were identified for the property:

- BA 89/2690 for a shed, approved 14 December 1989.
- DA 97/485 for dwelling additions and tree removal, approved 2 March 1998.
- BA 98/2003 for additions to create an expanded dwelling, approved 5 March 1998.
- 10 • DA 98/354 for a subdivision (boundary adjustment), approved 21 September 1998.
- DA 10.2009.201.1 for a studio, approved 24 September 2009.
- S96 10.2009.201.2 for modification to install shower, approved 10 February 2010.

Wedding venue and accommodation services

- 15 An internet search revealed that the site is currently advertised online as a commercial wedding venue with accommodation services. Refer to <https://byronviewfarm.com.au>. No approvals for such a use were identified in Council's records.

It is unknown how the proposed camping ground relates to the wedding venue.

Earthworks

- 20 During the advertising period, it came to Council's attention that a mini-excavator had been brought to site to commence the earthworks needed to create level building pads for the camp sites. Community enforcement officers visited the site on Tuesday 9 February 2021 and a stop work order was issued the following day.

1.2. Description of the proposed development

- 25 This application seeks approval for a primitive camping ground consisting of eight (8) sites. Each site will contain a wooden platform, upon which a 'safari tent' shell will be placed, supported by a framework of interlocking wooden poles. Each safari tent will be fully furnished and provided with a toilet, shower and kitchenette with fixed plumbing connections, similar to a holiday cabin.

The following is proposed in detail:

30 **Camping sites – (wooden decks with facilities)**

- (1) The creation of eight (8) camping sites on the eastern side of the property. Each site will comprise one elevated deck area, with the following features:
- a. A hard floor with steps for access;
 - 35 b. An en-suite including shower, basin and composting toilet.

- c. Bench and sink;
- d. Space to accommodate a bed and table;
- e. Connection to a potable water supply from communal onsite tanks;
- f. Connection to reticulated power;
- 5 g. Individual gas hot water supplies for the bathroom and sink.

- 10 (2) Site 1 will feature the use of an existing deck of 10m by 5m (55m²) capable of accommodating a removable tent with canvas walls and roof. The raised timber deck will have an en-suite with shower, basin and flushable toilet with independent waster system.

- (3) Sites 2–8 each will feature 1 deck/floor area capable of accommodating a removable tent 8m by 5m or 45m². Each site will also have an en-suite with toilet, basin and shower and small bench with sink.

15 **Safari tents**

- 20 (4) Each deck will be capable of accommodating a removable tent. Details of the tents potentially capable of being located on each site are shown in Figures 1 and 2 below. The application states that sites 1 and 2 will have a removable tent featured in the specifications as 'Safari Tent 35 – Option 3' (Site 1) and 'Safari Tent 25 – Option 2' (Sites 2–8).

Access

- (5) The camping sites will be accessed via an existing driveway from St Helena Road. Guest parking will be provided adjacent to Site 1.

On-site sewage management facilities

- 25 (6) Two new on-site sewage management systems will be provided.

- (a) One OSMS will service camp site one (1). The proposed system offers secondary treatment via 3000L septic tank, 1 reed bed and 1 ETA bed.

- 30 (b) The second OSMS will service camp sites 2–8. The system also offers secondary treatment via 3000L septic tank, 2 reed beds, 600L pump-well, and 3 passively dosed ETA beds.

Landscaping and bush regeneration

- 35 (7) Proposal to plant 844 trees including Koala feed tree species, rainforest species and groundcovers in various areas and install nest boxes for native wildlife.

Staging

The development is intended to be undertaken over four (4) stages. Each stage will involve the creation of two (2) deck areas with bench and en-suite for use by removable tent.

5

Stage 1	Authorisation of two existing decks identified as sites 1 and 2 and installation of OSMS system noting these decks contain an incomplete en-suite and bench.
Stage 2	Decks for sites 3 and 4 and construction of OSMS.
Stage 3	Decks for sites 5 and 6, including the linking of both tents to the OSMS and potable water.
Stage 4	Decks for sites 7 and 8, including linking of both tents to the OSMS and potable water.



Figure 1: Image of proposed safari tent.



Figure 2: Image of safari tent interior.



- 5 **Figure 3:** Floor plan of proposed safari tent. “Option 2” (right) is proposed for tents 2-8. Tents are fully plumbed and contain bathrooms, living area, kitchenette and furniture.

1.3. Description of the site

A site inspection was carried out on 22 February 2021.

The site is a 13.5 hectare property located at McLeods Shoot, about 5km south-west of Byron Bay. The property is situated on top of scenic ridgeline near St Helena with expansive northerly views towards Cape Byron.

- 5 The land is mostly cleared of vegetation apart from some scattered patches of mixed subtropical rainforest on the eastern side of the property. The western side is cleared grasslands.

Existing development comprises an original timber homestead plus and expanded house outbuilding, shed and art studio located in the centre of the property. Two safari tents on wooden platforms (forming part of the proposed development) have already been erected.

- 10 The eastern half of the site is zoned 7(d) (Scenic/Escarpment Zone) under LEP 1988, while the western half is zoned RU2 Rural Landscape under LEP 2014.



- 15 **Figure 4:** View towards the proposed camping sites on the north-eastern slope of the property. Two of the proposed safari tents have already been erected.



Figure 5: Locations of proposed campsites.



5

Figure 6: Easterly view of proposed camp sites. Earthworks have already commenced.



Figure 7: Northerly view from the proposed campsites towards Cape Byron.

5

2. SUMMARY OF REFERRALS

Referral	Issues
Environmental Health Officer*	<p>Land contamination</p> <p>The application does not include any verifiable information to demonstrate that the subject site is uncontaminated. A preliminary investigation of the land needs to be undertaken in accordance with the EPA guidelines given the sites proximity to a former dip site.</p> <p>Not supported due to insufficient information. Refer to doc. #A2021/25826</p>
Development Engineer	No objections subject to conditions.
Ecologist	<p>Insufficient information re: bush regeneration</p> <p>Not supported. The application has not demonstrated that it</p>

Referral	Issues
	would achieve the environmental and repair efforts required by LEP 1988 and BRSS.
Rural Fire Service. S 100B	General Terms of Approval issued on 4 November 2020.

3. SECTION 4.46 – INTEGRATED DEVELOPMENT

Camping grounds are defined as a type of “special fire protection purpose” and require a Bush Fire Safety Authority under s. 100B of the *Rural Fires Act 1997*. The application is integrated development as per s. 4.46 of the *Environmental Planning and Assessment Act 1979*.

Should the application be approved, General Terms of Approval (GTA’s) have been issued by the RFS on 4 November 2020 for inclusion on any consent. .

4. SECTION 4.15C – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES

Having regard to the matters for consideration detailed in Section 4.15(1) of the Environmental Planning & Assessment Act 1979 (EP&A Act), the following is a summary of the evaluation of the issues.

4.1 State Environmental Planning Instruments

State Environmental Planning Policy (Koala Habitat Protection) 2020

The Koala SEPP 2020 requires Council to consider whether the land is a potential or core koala habitat. If the land is identified as core habitat, consent cannot be granted unless there is a plan of management prepared for the site in accordance with Part 3 of the SEPP.

This site is generally free of vegetation aside from patches of mixed subtropical rainforest on the eastern side of the property. Less than 15% of the species in the upper and lower strata consist of Koala food trees. On this basis, the land is not considered to be potential or core koala habitat as defined under the SEPP. Consent is able to be granted without the requirement for a plan of management.

State Environmental Planning Policy No 55—Remediation of Land

The proposed camping ground is approximately 250m north-west of a disused cattle dip site near St Helena Road. The dip site was decommissioned in 1994 however there is some potential for contamination of surrounding sites.

Clause 7 (2) of SEPP 55 provides that Council must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with

the contaminated land planning guidelines. No such report was provided with the application.

Insufficient information has been provided to demonstrate that the land is not contaminated.

5 4.2A Byron Local Environmental Plan 2014 (LEP 2014)

LEP 2014 is not a relevant matter for consideration because the development and the associated access is located entirely in the 7(d) (Scenic Escarpment Zone). Refer to Section 4.2B below.

4.2B Byron Local Environmental Plan 1988 (LEP 1988)

- 10 LEP 1988 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 4.15(1) of the EP&A Act because it applies to the subject land and the proposed development. The LEP 1988 clauses that are checked below are of relevance to the proposed development:

Part 1	<input checked="" type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 <input checked="" type="checkbox"/> 2A <input checked="" type="checkbox"/> 3 <input checked="" type="checkbox"/> 4 <input checked="" type="checkbox"/> 5 <input checked="" type="checkbox"/> LEP 1988 Dictionary <input checked="" type="checkbox"/> 7
Part 2	<input checked="" type="checkbox"/> 8 <input checked="" type="checkbox"/> 9
Part 3	<input checked="" type="checkbox"/> 31 <input checked="" type="checkbox"/> 34 <input checked="" type="checkbox"/> 40 <input checked="" type="checkbox"/> 45

In accordance with LEP 1988 clauses 5, 8 and 9:

- 15 (a) The proposed development is defined in the LEP 1988 Dictionary as a *primitive camping ground*;
- (b) The land is within the LEP1988 7(d) (Scenic Escarpment Zone) according to the map under LEP 1988;
- (c) The proposed development is permitted with consent; and
- 20 (d) The proposed development is consistent with the relevant objectives of the Zone for the following reasons:

7 (d) (Scenic/Escarpment Zone)	Consideration
(a) to protect and enhance the scenic qualities of the Shire of Byron which enhance the visual amenity by controlling the choice and colour of building materials, position and bulk of buildings,	The scale of the development (eight sites) is considered to be excessive and likely to detract from the scenic quality and visual

access roads and landscaping,	<p>amenity of the area.</p> <p>This could potentially be addressed by reducing the number of sites to six, noting that the current layout of the development is positioned below the main ridgeline and steps down the slope with the contours of the land.</p>
(b) to prohibit development within the zone that is likely to have a visually disruptive effect on the scenic quality and visual amenity of the Shire,	
(c) to enable development for certain purposes where such development would not have a detrimental effect on the scenic quality and visual amenity of the Shire,	
(d) to minimise soil erosion from escarpment areas and prevent development in geologically hazardous zones, and	
(e) to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.	

Clause 9 Zone objectives and development control table

The safari tent concept outlined in the DA is not considered to meet the LEP definition of a *primitive camping ground*. Instead, it is more closely aligned with the definition of *rural tourist facility* which is a prohibited use in the 7(d) (Scenic/Escarpment Zone).

- 5 A primitive camping ground is defined as follows:

Primitive camping ground means land used for the placement of tents and camper vans on a temporary basis in accordance with the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995.

- 10 The definition requires that primitive camping grounds must be temporary and established in accordance with the *Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995* (the 1995 Regulations).

The 1995 Regulations provides as follows:

65 Primitive camping grounds

- 15 (1) *The following conditions apply to a primitive camping ground:*

- (a) ***the maximum number of caravans, campervans and tents permitted to use the camping ground at any one time is not to exceed 2 for each hectare of the camping ground,***
- 20 (b) *a caravan, annexe or campervan must not be allowed to be installed closer than 6 metres to any other caravan, annexe, campervan or tent,*

- 5 (c) *a tent must not be allowed to be installed closer than 6 metres to any caravan, annexe or campervan or closer than 3 metres to any other tent,*
- (d) *the camping ground must be provided with a water supply, toilet and refuse disposal facilities as specified in the approval for the camping ground,*
- (e) ***unoccupied caravans, campervans and tents are not to be allowed to remain in the camping ground for more than 24 hours,***
- (f) *if a fee is charged for camping, a register must be kept in accordance with clause 55,*
- 10 (g) *such fire fighting facilities as may be specified in the approval are to be provided at the primitive camping ground.*

The proposed development is not considered to meet the above definition for two main reasons.

15 Firstly, no information was provided to delineate the area of the camping ground within the property. This is important because clause 65 (1) (a) provides that no more than two (2) tents are permitted at any one time for each hectare of the camping ground. If the actual area of land being used for a camping ground is less than 4 hectares, then the proposed 8 tent sites would exceed the maximum number specified in the Regulations.

20 Secondly, there is no explanation of how the outer shell of the safari tents, along with beds and furniture, could be practically and quickly removed from the land within 24 hours following the departure of guests as required by clause 65 (1) (e). Even if this could be achieved, doing so would leave the platforms and plumbing fixtures exposed to the elements, resulting in damage to the materials and allowing stormwater to infiltrate into the OSMS. There is also no way Council could ensure compliance with this requirement.

25 The proposed development is considered to be more accurately characterised as a type rural tourist facility involving holiday cabins, or perhaps an undefined use. Rural tourist facilities and undefined uses are both prohibited in the 7(d) (Scenic/Escarpment Zone) which applies to the eastern half of the site.

30 Given the issues identified above, it would be inappropriate to grant consent to the application in its current form as it constitutes a prohibited use.

Clause 30 Development within Zone No 7 (d) (Scenic/Escarpment Zone)

35 Further consideration of materials, colours and landscaping is not necessary in the circumstances as the application is recommended for refusal. However, in the event that Council elects to approve the application, it is suggested that a condition could be imposed that requires the use of recessive earth-tone materials for any future tents, along with landscaping in and around the sites to further minimise visual impact.

Clause 31 Development on ridgetops

40 Clause 31 of the LEP prevents the Council from approving development on, or near, any ridgeline, unless it can be demonstrated that no alternative location for the development is

available. In that case, Council is required to consider whether the design materials, colours and landscaping will be adequate to mitigate any potential adverse visual impact.

31 Development on ridgetops

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, in which case the following objectives to lessen the impact are to be considered before consent is granted—

- (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*
- (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.*

The entire property is located on a ridgeline. As such, there are no other alternative locations available within the site that would not be also considered “on or near any ridgeline”.

As discussed in clause 30, if the Council elects to grant consent to the application, it is recommended that earth coloured materials and landscaping be used to minimise visual impact on the surrounding landscape.

Clause 34 Tourist accommodation in rural zones

Clause 34 does not apply to the subject application because the 7(d) (Scenic Escarpment Zone) is identified in clause 8 of LEP 1988 as a type of environmental protection zone, rather than a rural zone. Clause 34 only applies to land within rural zones where rural tourist facilities are permissible.

Clause 40 Height

A 9 metre maximum height limit applies to the subject land. The proposed decking structures and safari tents have a maximum height of approximately 3.5 metres and comply with the standard.

Clause 45 Provision of services

Each tent site will have its own toilet, shower and kitchenette connected to an on-site sewage management system. Site 1 will be connected to its own OSMS, while sites 2–8 will be connected to a single combined OSMS. Potable water is to be provided from communal on-site rainwater tanks although no information was provided explaining the intended location or capacity of the proposed tanks. Further information is required to clarify this issue as it may require the installation of new tanks or buildings to supply the camping ground.

Council’s Environmental Health Officer commented that the proposed sewage disposal systems were adequate for the proposed development.

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

There are no proposed instruments of any particular relevance to the subject application.

The site is not included in Stage 2 of Council's e-zones program.

5 4.4A Byron Shire Development Control Plan 2014 (DCP 2014)

DCP 2014 is not a relevant matter for consideration because the development is located entirely in the 7(d) (Scenic Escarpment Zone). Refer to Section 4.4B below.

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

- 10 DCP 2010 is an applicable matter for consideration in the assessment of the subject development application in accordance with subsection 4.15(1) of the EP& A Act because its purpose is to provide planning strategies and controls for various types of development permissible in accordance with LEP 1988. The DCP 2010 Chapters/Parts that are checked below are of relevance to the proposed development:

Chapter 1 Parts:	<input checked="" type="checkbox"/> A <input checked="" type="checkbox"/> C <input checked="" type="checkbox"/> D <input checked="" type="checkbox"/> F <input checked="" type="checkbox"/> G <input checked="" type="checkbox"/> H <input checked="" type="checkbox"/> N
Chapters:	<input checked="" type="checkbox"/> 17

- 15 These checked Chapters/Parts have been taken into consideration in the assessment of the subject development application in accordance with Section 4.15 of the EP&A Act. The proposed development is demonstrated to meet the relevant Objectives of DCP 2010 (in some cases subject to conditions and/or to the satisfaction of other assessing officers).

Chapter 1: Part C Residential Development	Compliance	Comment
C2.3 Buffer Areas	Yes	The proposed development is approximately 200m from grazing lands to the south at 594 Bangalow Road and 350 from grazing land at 646 Bangalow Road, Talofa. The proposal is not within close proximity to any intensive agricultural uses or extractive industries listed in the table under Part C2.3.
C2.6 Element – Setback from Street, Side and Rear Boundaries	Yes	The proposed camping sites and structures comply with the minimum setback requirements under Element C2.6.
C2.7 Element – Extent of earthworks	Yes	The application does not propose excavation greater than 1m in depth.

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C3.1 Element – Visual Impact	No*	<p>The number of safari tents (8) is considered to be excessive and is likely to detract from the scenic quality and visual amenity of the area.</p> <p>* This could potentially be addressed by a condition reducing the number of sites to six, noting that the current layout of the development is positioned below the main ridgeline and steps down the slope with the contours of the land.</p>
C3.3 Element – Development On or Near Ridgetops	No*	See above.
C3.4 Element – Development in Scenic Zones	No*	See above.

Part C10 Caravan Parks and Camping Grounds	Compliance	Comment
C10.1 Element – Lot Size	No	<p>The minimum allotment size for a primitive camping ground must be 5 hectares.</p> <p>The allotment has an area of 13.63 hectares; however, the application did not specify what portion of the property will be dedicated as a primitive camping ground.</p> <p>Insufficient information has been provided to demonstrate how the development can comply with this element of the DCP.</p>
C10.2 Element – Recreation Areas	No	<p>10% of the total area of a camping ground must be reserved for recreation and communal activities.</p> <p>The application did not include any information detailing the area of the camping ground or the amount of land set aside for recreation and communal use.</p> <p>Insufficient information has been provided to demonstrate how the development can comply with this element of the DCP.</p>

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C10.3 Element – Landscaping	Can be conditioned	The area reserved for recreation and communal activities (clause C10.2) must be common landscaped area. This can be achieved if necessary through a condition of consent that requires a landscaping plan to be prepared post-consent. However, Element C10.2 would need to be satisfied to identify the area for recreation and communal activities.
C10.4 Element – Siting	Yes	Each site is provided with facilities and services.
C10.5 Element – Equity of Access and Mobility	Can be conditioned	Access must be in accordance with AS 1428.2. The uppermost campsite is likely capable of complying with AS 1428.2, subject to conditions. Campsites further downslope likely cannot comply due to the steepness of the slope.

4.5 Environmental Planning & Assessment Regulation 2000 Considerations

Clause	<i>This control is applicable to the proposal:</i>	<i>I have considered this control as it relates to the proposal:</i>	<i>If this control is applicable, does the proposal comply?</i>
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*

4.6 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 significant impact on the natural environment. No vegetation is proposed to be removed.
Built environment	<p><u>Traffic generation</u></p> <p>Council's Development Engineer calculated that development would generate 1.33 daily trips per campsite, or 10.64 daily trips in total. The development is classified as low-impact in terms of traffic generation.</p> <p><u>Road Access and Driveway</u></p> <p>Council's development engineer concluded that the following external and internal road upgrades are required:</p> <ul style="list-style-type: none"> • The driveway access point at St Helena Road must be upgraded to meet RMS design standards. • Section of St Helena Road in front of the access point must be sealed and upgraded to merge with the existing seal west of the driveway. • Internal roads must be upgraded to meet RFS and Council conditions. <p><u>Relationship to unauthorised wedding venue</u></p> <p>The land owner indicated during the assessment that the proposed camping ground is intended to operate independently from the existing wedding venue (Byron View Farm). Nevertheless, this cannot be guaranteed and there is some potential that the campground could result in an intensification of the existing use if patrons of the wedding venue also stayed overnight at the camping ground.</p> <p>Given the application is recommended for refusal, this issue of cumulative impact has not been given further consideration in this assessment. However, if the Council elects to approve the application, it is recommended that a secondary</p>

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	<p>recommendation be given to investigate the wedding venue and undertake compliance action where necessary.</p> <p><u>Overhead powerlines</u></p> <p>During the site inspection it became apparent that one of the existing safari tents is located underneath overhead powerlines. This poses a safety threat and may impact on Essential Energy's infrastructure.</p>
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.

4.7 The suitability of the site for the development

- 5 The site attributes are generally conducive to the development, notwithstanding the issues relating to permissibility, scale and visual impact. That is, a permissible development type with a smaller scale could potentially be supported on the site.

4.8 Submissions made in accordance with this Act or the regulations

The development application was publicly exhibited for a period of 14 days in accordance with Part A of DCP 2010. Eleven (11) submissions were received.

- 10 Matters raised by the public generally focused on the issue of permissibility within the zone, along with impacts on scenic landscape and loss of amenity due to noise, traffic and privacy. Concerns were raised by multiple submitters in relation to an alleged authorised wedding venue being run on the property.

Issues are summarised and addressed in the table below.



Issue	Comment
Density/Scale of Development	
Density - no. of sites is excessive.	Agreed. Eight safari tents are considered to be excessive for the site.
Density – no. of guests will be up to 6 per “tent”, for a max. potential of 40 guests.	The tents are not intended to accommodate large numbers of guests and contain one double bed. Maximum capacity is like 2-3

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	persons per tent.
Traffic impacts	
Traffic generation on poor rural road.	Council's Development Engineer has classified the development as low impact in terms of traffic impact.
Vehicle safety issues due to increased traffic.	See above.
Road user impacts i.e. dust, noise light pollution.	Road upgrades (sealing and improvement to access point) are recommended.
Traffic generation will be greater than submitted in the DA.	See above.
Amenity impacts	
Noise from large gatherings associated with functions.	The issue of the function centre will need to be addressed separately.
Loss of amenity (general)	Acknowledged. However, the impact is unlikely to be significant due to separation distance and vegetation.
Loss of privacy – campsites overlook residences	See above.
Unauthorised development	
Increased risk of Crime	There is not a well established link between lawful camping and rates of crime.
Site currently used as an unauthorised wedding venue See Byron View Farm website.	<p>Acknowledged. The property is advertised online as a wedding venue – a prohibited use in the 7(d) Zone. Error! Hyperlink reference not valid.</p> <p>This matter will need to be addressed separately by Council community enforcement team.</p> <p>Extract from Website below</p>

<div> <h2 style="text-align: center;">Weddings & Elopements at BYRON VIEW FARM</h2> <p>Boasting the best outlook in Byron Bay, Byron View Farm sits at the highest point on a secluded hilltop with 360-degree uninterrupted ocean to mountain views. It's a unique venue that offers the country and coastal experience all in one. Set on 40 acres of lush green rolling hills, Byron View Farm's iconic setting lends itself to complement any style preference.</p> <p>An original, charming white cottage creates the central focus. Its spacious wrap-around verandah is a perfect setting to host cocktails, canapés and intimate dinners for up to 70 guests.</p> <p>The cottage also doubles as self-contained accommodation which is the perfect love nest for newlyweds. Our favourite feature; the sunsets! They are truly EPIC! Your guests will marvel at how extraordinary they are. In the afternoon, the light shifts to reveal lush green rolling hills that ease into the ocean. And as the sun drops, it creates the most beautiful golden hues.</p> <p>Something even more spectacular is experiencing a full moon. If you can tie your wedding date in with the Lunar calendar, you're set for a very magical experience as the moon rises up over the ocean.</p> <div>  <div> <p><i>Boasting 360-degree views overlooking Byron Bay and the hinterland, Byron View Farm is the perfect destination to create your dream wedding.</i></p> </div>  </div> </div>	
Out of character with area	A number of rural tourist facilities exist in the area.
Length of stay for guest period should be specified	Agreed. Maximum length of stay should be specified and capped.
Site is used as wildlife/Koala corridor	Council's Ecologist did not consider impacts on Koalas/wildlife to be a significant issue.
OSMS (Sewage Management)	Property is of sufficient size to accommodate an onsite sewage management system for such a development
Steep slope and landslip issues	Noted
Glamping tents equivalent to holiday cabins	Agreed. The proposed 'safari tents' are self contained structures that are more akin to holiday cabins than tents and not consistent with a primitive camping ground .
There is already accommodation on the site associated with the unauthorised wedding venue	Acknowledged. The alleged accommodation appears to be unapproved. Recommended

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	that Council further investigate this matter.
Inconsistent with the zone objectives	Agreed. The scale of the development is incompatible with the objectives of the 7(d) (Scenic Escarpment Zone).
Close proximity to residential properties.	The closest camp site has a 80 metre separation distance to the nearest dwelling.
Bush regeneration plan is inadequate/inappropriate. Rainforest species are needed as per Big Scrub (1)	Agreed that bush regeneration is inadequate.
Fails to satisfy the requirements for primitive campgrounds as per the 2005 LG Regulations.	Agreed.
DA fails to address DCP Chapter 1 Part C. No common areas or communal facilities etc.	Agreed.
Existing bushfire provisions inadequate.	Conditions have been provided by the RFS should the application be approved.
Car parking insufficient (1)	There is ample room for car parking to be provided.

4.9 Public interest

Approval of a prohibited use is contrary to the public interest.

5. DEVELOPER CONTRIBUTIONS

5

5.1 Water & Sewer Levies

The property is not serviced by reticulated water or sewer. No Section 64 levies will be required.

5.2 Developer contributions

- 10 The development is non-residential. Should the application be approved Section 7.12 contributions would apply..

6. CONCLUSION

This application seeks approval for a primitive camping ground consisting of eight (8) sites at 194 St Helena, Road, McLeods Shoot.

- 15 The development concept fails to meet the LEP definition of a *primitive camping ground* and is more akin to a rural tourist facility involving holiday cabins. Given that rural tourist facilities are prohibited in the 7(d) Scenic/Escarpment Zone), it is recommended that the application be refused.

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A number of other issues were also identified relating to zone objectives, visual impact, proximity to powerlines and a lack of information relating to land contamination, water supply, and bush regeneration. These have been included as additional reasons for refusal.

Report No. 13.7 **PLANNING - Report of the 11 February 2021 Planning Review Committee**

Directorate: Sustainable Environment and Economy

Report Author: Chris Larkin, Manager Sustainable Development

File No: I2021/228

Summary:

This report provides the outcome of the Planning Review Committee (PRC) held on 11 February 2021.

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 endorses the outcomes of the Planning Review Committee meeting held on 11 February 2021.

REPORT

The Planning Review Committee meeting was held on 11 February 2021. The Meeting commenced at 2:00pm and concluded at 2:30pm.

5 Councillors: Crs Lyon, Martin, Hackett, Cameron, Ndiaye

Apologies: Crs Richardson, Hunter, Spooner

Staff: Chris Larkin (Manager Sustainable Development)

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

DA No.	Applicant	Property Address	Proposal	Exhibition Submissions	Reason/s Outcome
10.2020.647.1	Mr J B Telfer	144 Stuart Street MULLUMBIMBY	Demolition of existing Dwelling House and Install Relocated Dwelling House on One (1) Lot	Level 1 10/1/21 to 24/1/21 Extended to 10/2/21 7 submissions	Staff delegation
10.2021.5.1	Balanced Systems Planning Consultants	75 Rifle Range Road BANGALOW	New Dwelling House, Swimming Pool, Cabana, Shed and Change of Use of existing dwelling into a central facility building including 5 individual bedroom accommodations for the existing rural tourist facility	Level 2 19/1/21 to 2/2/21 >100 submissions	The number of public submissions. The perceived public significance of the application. Council

10 The Land and Environment Court and Council determined the following original development applications as noted.

The Section 4.56 and 4.55 applications to modify these development consents were referred to the Planning Review Committee to decide if these modification applications can be determined under delegated authority. The outcome is shown in the final column.

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DA No.	Applicant	Property Address	Proposal	Exhibition Submissions	Reason/s Outcome
10.2017.639.2	Ardill Payne & Partners	33 Kallaroo Circuit OCEAN SHORES	S4.56 Modification to Development Consent granted by the NSW Land and Environment Court, where the Development will remain substantially the same as the Development that was originally Approved	Level 1 26/11/20 to 9/12/20 No submissions received	Staff delegation
10.2016.625.3	Mr M Scott	35-37 Burringbar Street MULLUMBIMBY	S4.55 to Amend First Floor Layout	Level 2 10/1/21 to 24/1/21 No submissions	Staff delegation
10.2020.201.2	Ardill Payne & Partners	9 Dudgeons Lane BANGALOW	S4.55 to Delete or Amend Conditions 3, 17, 30, 49, 52, 53 and 55, and Stage the development into two stages	Level 0	The perceived public significance of the application. Council
10.2019.161.2	Lismore Venture Pty Ltd	23 Lismore Road BANGALOW	S4.55 to Amend Conditions and remove Motorcycle Parking	Level 2 10/1/21 to 24/1/21 1 submissions	The perceived public significance of the application. Council